

DEVMANTRA TIMES

JUNE EDITION

ISSUE NO : 16, DATE : 01ST JUNE 2022

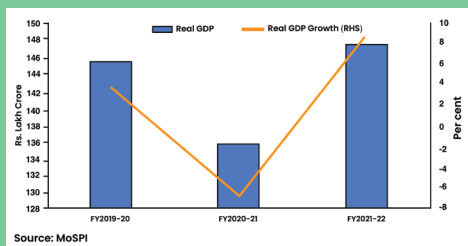
Editorial

Dear Readers,

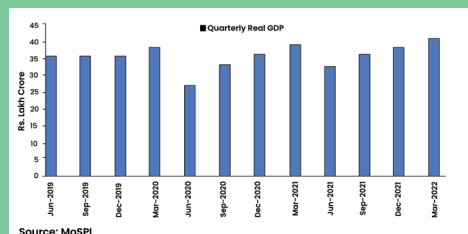
We welcome you to the **Sixteenth** edition of **Devmantra Times** for the month of **June 2022**.

India's economy grew by 4.1 per cent in the fourth quarter of 2021-22, pushing up the annual growth rate to 8.7 per cent, official data showed on Tuesday. However, growth in the January-March period was slower than the 5.4 per cent expansion in the previous October-December quarter of 2021-22. The gross domestic product (GDP) had expanded by 2.5 per cent in the corresponding January-March period of 2020-21.

Provisional Estimates of GDP



Sequential Real GDP Growth



Q4 numbers: A glance at sectors

- * **Agriculture sector grows 4.1% as to 2.5% in Q3**
- * **Mining sector grows 6.7% as compared to a rise of 9.2% in the previous quarter**

- * **Manufacturing contracts 0.2% compared to 0.3% growth in Q3**
- * **Construction grows 2% as compared to a contraction of 2.8% in third quarter**
- * **Trade, hotel, transport, communication grows 5.3% as compared to 6.3% in preceding quarter**
- * **Financial services sector grows at 4.3% as compared to 4.2% in third quarter**

What's the Future for Indian Economy

While the readings have broadly come in line with expectations, the outlook remains clouded with uncertainties especially with escalating crude oil prices. Further, weak labor markets, limited ability on additional fiscal spends, reduced corporate margins due to rising input prices and weaker global demand remain a concern. The soaring commodity prices owing to the ongoing Russia-Ukraine war have led to high inflation. The retail inflation landed at an eight-year high of 7.79% in April 2022, breaching the upper limit of RBI's tolerance band for the fourth consecutive month. The pass-through of this inflationary pressure could hit private consumption which is one of the key drivers of the Indian economy. Therefore, to curb the accelerating price rise situation, the Reserve Bank announced a

rate hike of 40 bps in the repo rate making it 4.40%. RBI had revised the GDP growth rate to 7.2%, from 7.8%, in its April resolution for FY23 due to higher oil prices causing a threat to private consumption..

Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax and Companies Act notification, circulars and case laws which may directly or indirectly impact our readers.

At Devmantra, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.

Devmantra was founded based on the unalterable premise of excellence, acuity, integrity and an unwavering commitment to delivery. These principles continue to form the edifice of our approach as an organization, to our clients, our professionals and our community, and this has served us well in our journey so far. This approach has allowed Devmantra to work with and advise the very best clients, both in India and internationally. We encourage our people to strive for excellence and innovation within a meritocratic working environment and support their entrepreneurial spirit.

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It is our consistent endeavour with our people, to ensure that they imbibe the culture of the firm and form part of the weft and weave of the fabric of Devmantra. Our core values remain the guiding principles for everything we do, and we would like to emphasize “Knowledge” as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority. We don’t count time when it comes to gain any new knowledge or to reinstate the earlier one. Our clients trust our expertise and putting countless hours in keeping ourselves up to date on the subject we are advising on, deserve their trust.

Regards,

CA. PRATIK NIYOGI, FCA
On behalf of the Editorial Team



GST REGULATORY UPDATES
Central Board of Indirect Taxes & Customs (CBIC) extends the due date for payment of GST & filing Form GSTR-3B (summary return) for April 2022 amid technical glitches

CBIC has extended the following due dates amid technical glitches reported in generation of Form GSTR-2B (auto drafted input tax credit (ITC) statement) and auto population of Form GSTR-3B on the GST portal

- Due date for furnishing Form GSTR-3B for April 2022 has been extended till 24 May 2022
- Due date for deposit of GST in Form PMT-06 for April 2022 has been extended till 27 May 2022

Form GSTR-1 (statement of outward supplies) / Invoice Furnishing Facility (IFF) enhancements deployed on GST Portal

Background

The statement of outward supplies in Form GSTR-1 is to be furnished

by all normal taxpayers on a monthly or quarterly basis, as applicable. Quarterly GSTR-1 filers have also been provided with an optional IFF for reporting their outward supplies to registered persons (B2B supplies) in the 1st two months of the quarter.

Continuous enhancements and technology improvements in GSTR-1 / IFF have been made from time to time to enhance the performance and user-experience of GSTR-1 / IFF, which has led to improvements in summary generation process, quicker response time and enhanced user-experience for the taxpayers.

The previous phase of GSTR-1 / IFF enhancement was deployed on the GST Portal in November 2021. In that phase, new features like the revamped dashboard, enhanced B2B tables and information regarding table / tile documents count were provided. In continuation to the same, the next phase of the GSTR-1 / IFF improvements is now available on the Portal, for which an advisory has been issued by team GSTN on 27 April 2022.



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The following changes have been done in this phase of the GSTR-1 / IFF enhancements

Improvement / Enhancement on GST portal	Before	Now	Benefit of Improvement / Enhancement
Removal of 'Submit' button before filing	Filing of GSTR-1 / IFF was done in 2 steps in which taxpayer had to upload the data and then needed to submit the data first and then finally file the return. After submitting the data, taxpayer was unable to modify the data	'Submit' and 'File' buttons are replaced with a 'File Statement' button making the filing a simpler 'Single-step filing' process	Taxpayers will get flexibility to add / modify records till the filing is completed by pressing the file statement button
Consolidated Summary	GSTR-1 summary generated from the portal did not report table wise summary of taxable value and tax amounts in separate columns. Taxpayers had to use some other software for the confirmation	Taxpayers will now be shown a table-wise consolidated summary before actual filing of GSTR-1/IFF. This consolidated summary will have a detailed and table-wise summary of the records added by the taxpayers	This will provide a complete overview of the records added in GSTR-1 / IFF before actual filing
Recipient wise Summary	There was no option to generate recipient wise summary	<p>The consolidated summary page will also provide recipient-wise summary, containing the total value of the supplies and the total tax involved in such supplies for each recipient</p> <p>The recipient-wise summary will be made available with respect to the following tables of GSTR-1 / IFF, which have counter-party recipients:</p> <ul style="list-style-type: none"> • Table 4A: B2B supplies • Table 4B: Supplies attracting reverse charge • Table 6B: SEZ supplies • Table 6C: Deemed exports • Table 9B: Credit / Debit notes 	Ease of reference

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NOTIFICATION NO. 07/2022, DATED 26-05-2022

No late fees for filing of GSTR-4 of FY 2021-22 till 30th June, 2022

Editorial Note : The CBIC has issued notification to waive off late fees for delay in filing of Form GSTR-4 of FY 2021-22 from 1st May, 2022 till 30th June, 2022.

CBIC issued several notifications to change Custom Duty & Export Duty on various products

Editorial Note : The CBIC has issued several notifications to change Custom Duty & Export Duty on various products which shall be effective from 22nd May, 2022

NOTIFICATION NO. 02/2022-CEN- TRAL EXCISE, DATED 21-05-2022

CBIC reduces excise duty on Petrol & Diesel: Notification

Editorial Note : The CBIC has issued notification to reduce the central excise duty on Petrol and Diesel by Rs. 8 per litre and Rs. 6 per litre respectively which shall be effective from 22nd May, 2022.

NOTIFICATION NO. 43/2022 - CUSTOMS (N.T.), DATED 19-05-2022

CBIC notified exchange rates effective from May 20th, 2022

Editorial Note : The Central Board of Indirect Taxes and Customs has notified the rate of exchange of conversion of the foreign currencies into Indian currency or vice versa, with effect from 20th May 2022, for import and export of goods.

NOTIFICATION NO. 4/2015-2020, DATED 11-05-2022

New RoDTEP schedule in appendix 4R notified for implementation w.e.f Jan. 1, 2022
Editorial Note : The Government has notified new RoDTEP schedule in appendix 4R for implementation w.e.f Jan. 1, 2022.

RECENT JUDICIAL RULINGS ON GST

Union of India v. Mohit Minerals (P.) Ltd. - [2022] 138 taxmann.com 331 (SC)

Held that GST on ocean freight paid in case of import of goods is unconstitutional. Also, the Indian importers who had paid such tax will be eligible to refund.

This judgement may change the landscape of those provisions under GST which are subject to judicial review. As the court has gone ahead to categorically hold that the GST Council recommendations have only persuasive value, there will be pragmatic approach to the provisions which are subject to judicial review by way of challenge

to the constitutionality of such provisions based on GST Council recommendations.

Hon Justice quoted Cooperative federalism, the Centre and the States were "autonomous, independent and even competing units" while making GST laws. "Cooperative federalism is treated like a marble cake federalism due to the integrated approach of the federal units," he compared. Cooperative federalism also known as marble-cake federalism, is defined as a flexible relationship between the federal and state governments in which both work together on a variety of issues and programs.

CLASSIFICATION OF GOODS

Dental blanks : Zirconium Oxide Ceramic Dental Blanks can be treated as ceramicware used in laboratory and classifiable under heading 6909 attracting 18% GST; such goods are not classifiable under tariff item 9021 21 00 as artificial teeth - Jyoti Ceramic Industries (P.) Ltd., In re - [2022] 137 taxmann.com 390 (AAR - MAHARASHTRA)

CLASSIFICATION OF SERVICES

Dental Care : Zirconium Oxide Ceramic Dental Blanks can be treated as ceramicware used in laboratory and classifiable under heading 6909 attracting 18% GST

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such goods are not classifiable under tariff item 9021 21 00 as artificial teeth - Jyoti Ceramic Industries (P.) Ltd., In re - [2022] 137 taxmann.com 390 (AAR - MAHARASHTRA)

Teeth bleaching and dental veneers : Bleaching of teeth and dental veneers for smile designing is to be considered as cosmetic surgery/treatment and not as healthcare; same is classifiable under heading 9972 and is liable to 18% GST - Jyoti Ceramic Industries (P.) Ltd., In re - [2022] 137 taxmann.com 390 (AAR - MAHARASHTRA)

SECTION 2(6) OF INTEGRATED GOODS AND SERVICES TAX ACT, 2017 - EXPORT OF SERVICES

Where applicant is rendering marketing services to IIUL, since main intention of agreement between IIUL and applicant is for increasing sales of Intel products, place of provision of services is same that of location of supplier of services which is in India and thus, said supply of services does not qualify as export of service as per section 13(3)(a) - MEK Peripherals India (P.) Ltd., In re - [2022] 138 taxmann.com 54 (AAR - MAHARASHTRA)

RULE 2(f) OF PLACE OF PROVISION OF SERVICES RULES, 2012 - INTERMEDIARY

Appellant was neither related to import of goods nor any sale of goods and also nor concerned with payment against those goods, therefore, appellant not "Intermediary" - Raaga Associates (P.) Ltd. v. Commissioner of Central Excise & Service Tax - [2022] 138 taxmann.com 55 (Chandigarh - CESTAT)

SECTION 15 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - TAXABLE SUPPLY, VALUE OF

Where applicant is a reseller of Intel Products which they purchase from various distributors of Intel Inside US LLC (IIUL) and applicant is entitled to earn certain incentives directly from IIUL, Incentives received by applicant cannot be treated as trade discount as there is no direct sale transaction between IIUL and applicant - MEK Peripherals India (P.) Ltd., In re - [2022] 138 taxmann.com 54 (AAR - MAHARASHTRA)

Where IIUL has appointed various distributors to sell company's products in India and applicant is not a distributor, some amount, in form of incentives, is flowing from IIUL to applicant, in absence of supply of goods at all between IIUL and applicant it appears that IIUL is paying consideration (in form of incentives) to applicant for receiving marketing services which would augment sale of Intel products - MEK Peripherals India (P.) Ltd., In re - [2022] 138 taxmann.com 54 (AAR - MAHARASHTRA)

SECTION 49A OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - UTILISATION OF INPUT TAX CREDIT SUBJECT TO CERTAIN CONDITIONS

Amendment made to Notification No. 16/2015 Cus., dated 1-4-2015 vide Notification No. 79/2017 dated 13-10-2017 allowing exemption of IGST paid on import would be applicable to imports made till 13-10-2017; refund of ITC of IGST under EPCG Scheme would be admissible only after debiting such credit from Electronic Credit Ledger - Radheyshyam Spinning (P.) Ltd. v. Union of India - [2022] 137 taxmann.com 391 (Gujarat)

SECTION 149 OF CUSTOMS ACT, 1962 - AMENDMENT OF DOCUMENTS

As no time limit prescribed for permitting amendment of shipping bills under section 149 of Customs Act, 1962, Department cannot rely upon circular to deny amendment on ground of limitation - Carboline India (P.) Ltd. v. Commissioner of Customs - [2022] 138 taxmann.com 56 (Chennai - CESTAT)



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INCOME TAX

REGULATORY UPDATES

Higher rate of withholding tax on payments to non-filers of tax returns – Central Board of Direct Taxes (CBDT) issues circular regarding use of compliance check functionality u/s 206AB & 206CCA of Income-tax Act, 1961

Existing provision	Amendment vide Finance Act 2022
Provision relating to higher TDS is not applicable on following payments: Section 192 – Payment of salaries Section 192A – Payment of accumulated balance due to an employee Section 194B – Winnings from lottery / crossword puzzle Section 194BB – Winnings from horse race Section 194LBC – Income in respect of investment in securitization trust Section 194N – Payment of cash exceeding Rs.1 Crore by bank / co-operative society / post office	In addition to the existing, the provision relating to higher TDS is not applicable on following payments: Section 194IA – Payment on transfer of immovable property Section 194IB – Payment of rent by certain individuals / Hindu Undivided Families (HUF) Section 194M - Payment of works contract / commission / brokerage / fee for technical services by individuals / HUFs > Rs.50 lakh a year Section 194S – Payment in lieu of transfer of virtual digital asset (VDA)
Condition for default in filing tax return for last 2 years has been reduced to last 1 year. Also, monetary limit of Rs.50,000 shall apply for 1 year instead of 2 years.	

New logical functionality for FY 2022-23

- A list of specified persons is prepared as on the start of FY year 2022-23, taking FY 2020-21 as the relevant year (since the due date for filing tax return for FY 2020-21 has expired). List contains names of the taxpayers who did not file tax return for FY 2020-21 and have aggregate of TDS and TCS of Rs.50,000 or more in the FY 2020-21
- During FY 2022-23, no new names are added in the list of specified persons / defaulters.

This is a taxpayer friendly measure to reduce the burden on tax deductor and collector of checking PANs of non-specified person / defaulter more than once during the FY

- If any specified person / defaulter files a valid return of income (filed and verified) for FY 2020-21 during the FY 2022-23, his name would be removed from the list of specified persons / defaulters (on the date of filing the valid tax return during FY 2022-23)
- If any specified person / defaulter files a valid tax return (filed and verified) for FY 2021-22, his name would be

removed from the list of specified persons / defaulters. This would be done on the due date for filing of the return of income for FY 2021-22 or on the date of actual filing of valid return (filed and verified), which ever is later

If the aggregate of TDS and TCS, in the case of a specified person / defaulter, in the FY 2021- 22 < Rs.50,000, his name would be removed from the list of specified persons / defaulters. This would be done on the first due date u/s 139(1) falling in the FY 2022-23. For the FY 2022-23 this due date is 31 July 2022

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- Belated and revised TCS and TDS returns of the relevant FY filed during the FY 2022-23 would also be considered for removing persons from the list of specified persons / defaulters on a regular basis
- The deductor / collector may check the PAN in the functionality at the beginning of the FY. After that, he is not required to check PAN of non-specified person during that FY

Updated Income Tax Return (ITR) u/s 139(8A) of Income-tax Act - CBDT notifies Form ITR-U & manner to furnish the same

Background – Section 139(8A) of the Income-tax Act, 1961

The Finance Act, 2022 has introduced a new provision for filing 'Updated ITR' u/s 139(8A) of the Income-tax Act within 2 years from the end of relevant Assessment Year (AY) on payment of additional tax. The scheme has been introduced with the objective to provide an opportunity for voluntary compliance by taxpayers in order to rectify errors in the last valid ITR filed and to reduce litigation. The Central Board of Direct Taxes has now notified a new rule (Rule 12AC) containing the new tax return form and the manner to furnish such Updated ITR.

It is relevant to note that Updated ITR cannot be filed in following cases:

- If it is an ITR to report Loss, or
- It decreases the tax liability reported in Original ITR u/s 139(1), Belated ITR u/s 139(4) or Revised ITR u/s 139, or
- It results in refund or increases refund as per Original ITR u/s 139(1), Belated ITR u/s 139(4) or Revised ITR u/s 139, or
- If search / survey / requisition has taken place
- If any updated ITR under the same provision [139(8A)] has already been filed for that year, or
- If any proceeding for assessment / reassessment / recomputation / revision of income is pending or has been completed for the relevant year, or
- Assessing Officer has communicated to the taxpayer information regarding money laundering / black money / benami transactions for the relevant year, or
- Any prosecution proceedings have been initiated against the taxpayer for the relevant year, or
- By any other category of taxpayer(s) as may be notified by CBDT

Salient Features

- In the form for Updated ITR, taxpayers are required to declare the purpose for filing as well as the amount of income to be taxed in the updated return.
 - Taxpayers are not required to provide a break up of the income reported in the ITR(Updated).
3. Taxpayers can now use the new form ITR-U to file the updated income tax return for financial years 2019-20 and 2020-21.

- Certain taxpayers are required to file the Updated ITR electronically using a digital signature or an electronic verification code. The taxpayer has to file the ITR Forms of the relevant assessment year and submit it along with the new ITR-U.
- The ITR-U has to be filed within two years of the end of the relevant assessment year. For doing this, taxpayers are also required to provide reasons for updating the ITR. According to Tax2Win, the reasons for filing ITR-U may be many, including previous return not filed, income not reported correctly, wrong heads of income chosen, reduction of a carried forward loss etc.
- A taxpayer has to pay an additional 25 percent tax and interest due if updated ITR is filed within a year (12 months) from the end of the relevant assessment year.
- A taxpayer has to pay an additional 50 percent tax and interest due if updated ITR is filed after a year (12 months) but before 24 months from the end of the relevant assessment year.
- The return will be considered invalid if the taxpayer fails to pay the additional taxes.
- According to Tax2Win, you cannot file ITR-U if the overall tax due is to be reduced and losses to be offset against income, for refund or for increase in refund amount.
- A taxpayer can file an Updated ITR only once for a Financial Year.

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Taxpayer	Existing time limit to file Original ITR u/s 139(1)	Existing time limit to file Belated ITR u/s 139(4) or Revised ITR (5) (unless assessment completed earlier)	Additional time limit u/s 139(8A) - Within 24 months of end of relevant AY
Individual	31st Jul of relevant AY	Another 5 months (i.e., 31st Dec of relevant AY)	Another 27 months (i.e., total 32 months from due date of Original ITR)
Company / Auditable case	31st Oct of relevant AY	Another 2 months (i.e., 31st Dec of relevant AY)	Another 27 months (i.e., total 29 months from due date of Original ITR)
Transfer Pricing cases	30th Nov of relevant AY	Another 1 month (i.e., 31st Dec of relevant AY)	Another 27 months (i.e., total 28 months from due date of Original ITR)
Instance		<ul style="list-style-type: none"> • 31st Dec of relevant AY till • 12 months from end of relevant AY 	<ul style="list-style-type: none"> • 12 months from end of relevant AY till • 24 months from end of relevant AY
		In case ITR is not furnished earlier	25% of tax & interest due on additional income
In case ITR is furnished earlier (Original, Belated or Revised)			

New Rules 114BA and 114BB inserted by CBDT

Pursuant to above, the Government has now provided some additional situations in which (a) obtaining PAN is mandatory, and (b) quoting and authenticating PAN is mandatory, as below.

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S no.	Transactions	New Rule 114BA inserted	New Rule 114BB inserted
1	Cash deposit(s) aggregating to Rs. 20 Lakh or more during a year in 1 or more accounts of a taxpayer with banks	<ul style="list-style-type: none">• Mandatory to obtain PAN• Application for allotment of PAN needs to be filed atleast 7 days in advance prior to the intended date of the transaction• Effective from 26 May 2022 onwards <p>While the Notification mandates to obtain PAN on opening of current account / cash credit account by a taxpayer, practically, it has been seen that banks always require PAN in order to open such accounts. Thus, effectively, it can be said that no additional compliance burden had been imposed by the Notification</p>	<ul style="list-style-type: none">• Mandatory to quote PAN by every taxpayer. Bank is required to authenticate the same• Effective from 10 July 2022 onwards
2	Cash withdrawal(s) aggregating to Rs.20 Lakh or more during a year in 1 or more accounts of a taxpayer with banks		
3	Opening of current account / cash credit account with banks		

INSTRUCTION NO. 01/2022, DATED 11-05-2022

CBDT issues instructions for AOs to implement SC's ruling upholding validity of old reassessment notices

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Editorial Note : Recently, the Supreme Court has upheld the validity of section 148 notices issued under old provisions and asked Assessing Officers to proceed with the reassessment following new provisions.

To implement the judgment of the Supreme Court in a uniform manner, the Central Board of Direct Taxes (CBDT) has issued instructions that shall be required to be taken into consideration by AOs.

**NOTIFICATION F.NO.
225/81/2022/ITA-II, DATED
11-05-2022**

CBDT issues guidelines for compulsory selection of ITRs for Complete Scrutiny during FY 2022-23

Editorial Note : The CBDT has issued guidelines for compulsory selection of returns for Complete Scrutiny during the financial year 2021-23. Income tax authorities are directed to select the cases based on these guidelines by 30-06-2022.

**NOTIFICATION NO. 51/2022/ F.
NO. 370142/4/2021-TPL, DATED
09-05-22**

CBDT amends various forms applicable for registration/ approval/statement under Sec. 10(23C), 12AB, 35 and 80G

Editorial Note : The Central Board of Direct Taxes (CBDT) has amended various forms applicable for applicants seeking registration/approval under Section 10(23C), 12AB, 35, 80G and filing of statements of donations & issuing the certificate to donors under Section 35 and 80G. The board has amended Forms 3CF, 10A, 10AB, 10BD, and 10BE.

**NOTIFICATION NO. 52 /2022/F. NO.
370142/4/2021-TPL, DATED
09-05-2022**

CBDT deauthorizes CIT (exemption), Bengaluru to pass registration orders for trusts, institutions, and funds

Editorial Note : The CBDT has de-authorized the Commissioner of Income Tax (Exemption), Bengaluru, for receiving applications and passing an order for provisional registration or registration or provisional approval or approval for various trusts, institutions, and funds. Now only the Director of Income Tax (Centralized Processing Centre), Bengaluru is authorized to do so.

**CIRCULAR NO. 9 OF 2022, DATED
09-05-2022**

CBDT issues guidelines clarifying availability of Sec. 10(23FE) exemption in different scenario

Editorial Note : The CBDT has issued Circular no. 9 of 2022 which provides guidelines for computation of exemption

available under section 10(23FE) in the hands of Abu Dhabi Investment Authority (ADIA), sovereign wealth funds (SWF), and pension funds (PF). Earlier, the board notified Rule 2DCA for computation of investment and exempt income under section 10(23FE).

**NOTIFICATION NO. 50/2022/F.
NO. 370142/2/2022-TPL, DATED
06-05-2022**

CBDT notifies Rule for computation of minimum investment & exempt income of specified person u/s 10(23FE)

Editorial Note : FA 2020 has inserted a new clause (23FE) in section 10 to provide an exemption to a wholly-owned subsidiary of the ADIA, a sovereign wealth, and a pension fund. The exemption is provided in respect of any income of the specified person like dividend, interest, or long-term capital gains arising from an investment made by it in India. The CBDT has notified Rule 2DCA for computation of such investment and exempt income.

**NOTIFICATION NO. G.S.R.
339(E), DATED 05-05-2022**

CBDT notifies revised forms for filing of an application to obtain 'Advance Ruling'

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Editorial Note : The Finance Act, 2021 had constituted a Board of Advance Ruling to provide an alternative method of providing prompt advance ruling to the taxpayers. Consequently, the CBDT has amended Rule 44E which provides for the filing of an application for advance ruling. The board has substituted Form No. 34C to Form No. 34EA.

RECENT JUDICIAL RULINGS ON INCOME TAX

SECTION 2(15) OF THE INCOME-TAX ACT, 1961 - CHARITABLE PURPOSE

Objects of general public utility : Where assessee trust, formed with an objective of generating and propagating innovative ideas on housing, undertook construction activities and took funds for same and said activity became its principle activity and there was no nexus between such activity carried on and objects of assessee that could constitute an activity incidental to attainment of objects of society, assessee could not be allowed exemption under section 11 - Zilla Nirmithi Kendra v. ACIT, (Exemptions) - [2022] 137 taxmann.com 349 (Bangalore - Trib.)

Objects of general public utility : Where in case of assessee trust, except for providing a bar room, all

other activities of providing swimming pool facilities for aquatic events and training and facilities for other sports and squash, billiards and table tennis etc., were activities of carrying out object of general public utility, assessee trust was a charitable trust within meaning of section 2(15), hence, entitled to exemption under section 11 - Navi Mumbai Sports Association v. ADIT (Exemption) - [2022] 137 taxmann.com 347 (Mumbai - Trib.)

SECTION 37(1) OF THE INCOME-TAX ACT, 1961 - BUSINESS EXPENDITURE - ALLOWABILITY OF

Repairs : Where assessee, a franchise of 'Domino's Pizza' and 'Dunkin Donuts', had take on lease bare shell premises of various entities and made extensive modifications in premises, considering nature of business of assessee and modifications done in leased premises taken by assessee for purpose of business, expenditure did not create any new asset, and, thus, expenditure on renovation and repairs of stores assumed character of revenue expenditure squarely fell under section 37(1) - Deputy Commissioner of Income-tax v. Jubilant Foodworks Ltd. - [2022] 137 taxmann.com 345 (Delhi - Trib.)

ESOP expenditure : Discount on issue of Employees Stock Options is allowable as deduction in computing income under head "Profit and gains of business" - Deputy Commissioner of

Income-tax v. Jubilant Foodworks Ltd. - [2022] 137 taxmann.com 345 (Delhi - Trib.)

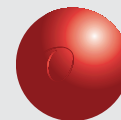
Expenditure on production of telly serials : Where assessee is involved in production and exhibition of tele-serials, expenditure incurred for production of tele-serials cannot be considered as capital in nature, because it does not give enduring benefit to assessee and is definitely revenue in nature - Assistant Commissioner of Income-tax v. Radaan Media Works (I) Ltd. - [2022] 137 taxmann.com 348 (Chennai - Trib.)

SECTION 40(a)(ii) OF THE INCOME-TAX ACT, 1961 - BUSINESS DISALLOWANCE - TAXES

Education Cess : Provision of section 40(a)(ii) does not include "cess" & consequently, "cess" whenever paid in relation to business is allowable as deductible expenditure - Deputy Commissioner of Income-tax v. Jubilant Foodworks Ltd. - [2022] 137 taxmann.com 345 (Delhi - Trib.)

SECTION 56 OF THE INCOME-TAX ACT, 1961 - INCOME FROM OTHER SOURCES - CHARGEABLE AS

Gifts : Where assessee a retired professional cricketer received ex-gratia payment from BCCI which was claimed as capital



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receipt not chargeable to tax and AO brought said sum to tax under section 56(2)(vii) without ascertaining whether registration of BCCI was restored under section 12AA for relevant assessment year or not, in such a case matter was to be remanded to AO - Sunil Bandacharya Joshi v. Deputy Commissioner of Income-tax - [2022] 137 taxmann.com 343 (Bangalore - Trib.)

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE

Adjustments - Administrative services : Where assessee failed to furnish even an iota of evidence to demonstrate that administrative services were actually rendered by AE and Assessing Officer determined ALP of administrative services fee at nil, no useful purpose would be served in restoring matter back to Assessing officer for reconsidering said issue - Akzo Nobel India Ltd.

v. Additional Commissioner of Income-tax - [2022] 137 taxmann.com 369 (Delhi - Trib.)

SECTION 127 OF THE INCOME-TAX ACT, 1961 - POWER TO TRANSFER CASES

Assessee has no right to choose his AO; Order u/s 127 for transfer of a case from AO to another

is more an administrative order that a quasi judicial order - Kamlesh Rajnikant Shah v. Principal Commissioner of Income-tax - [2022] 138 taxmann.com 59 (Gujarat)

SECTION 145 OF THE INCOME-TAX ACT, 1961 - METHOD OF ACCOUNTING

Where affidavit filed by assessee-trust before Tribunal revealed that assessee challenged method of accounting changed by revenue, submission advanced on behalf of assessee was required to be dealt with on merits; dismissal of appeal on ground that assessee did not challenge action of revenue on this issue was unsustainable. Matter remitted to Tribunal to consider matter afresh - Prajatantra Prachar Samity v. Commissioner of Income-tax - [2022] 138 taxmann.com 58 (SC)

SECTION 148A OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - CONDUCTING INQUIRY, PROVIDING OPPORTUNITY BEFORE ISSUE OF NOTICE

SC agrees with HCs that ITD erred in issuing reassessment notices on or after 1-4-2021 even if for past AYs as per old provisions but gives partial relief to Department by treating the reassessment notices issued under old provisions and quashed by HCs as show cause notices issued under clause (b) of new section 148A and dispenses with enquiry by AO under clause (a) of section 148A. AOs to furnish to assesseees

all material relied upon by them and assesseees free to raise all defences before AO - Union of India v. Ashish Agarwal - [2022] 138 taxmann.com 64 (SC)

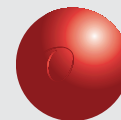


CORPORATE LAW UPDATES

CIRCULAR NO. SEBI/HO/IMD/FPI&C/CIR/P/2022/57, DATED 29-04-2022

SEBI modifies guidelines for FPIs, Designated Depository Participants and 'Eligible Foreign Investors'

Editorial Note : SEBI vide SEBI Circular No. IMD/FPI&C/CIR/P/2019/124 dated 05-11-2019 issued operational guidelines for FPI, DDP, and FI whereby the designated depository participant is required to grant certificate of registration, bearing the registration number generated by NSDL in a centralised manner. SEBI has decided to modify the operational guidelines. Now, the designated depository participant is required to grant the certificate of registration, bearing the registration number generated by SEBI.



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CIRCULAR NO. SEBI/HO/MRD 1 / MRD 1 _ DTCS / P / - CIR/2022/58, DATED 02-05-2022

SEBI revises audit framework of MIs; requires reporting of major non-compliances in system and network audits

Editorial Note : The SEBI vide Circular dated 07.01.2020, mandated annual system audit by an independent auditor for Market Infrastructure Institutions (MIs). The SEBI has revised existing system audit framework so as to cover the network audit under the ambit of the revised system. Now, MIs are required to conduct system and network audit. MIs are also required to submit information w.r.t. exceptional major Non-Compliances (NCs)/ minor NCs observed in System and Network audit as per specified format.

NOTIFICATION NO. G.S.R 335(E), DATED 04-05-2022

MCA tweaks Form SH.4 to include a declaration from transferee that no Govt. approval is required under FEMA (NDI) rules

Editorial Note : The MCA has notified the Companies (Share Capital and Debentures) Amendment Rules, 2022 whereby 'Securities Transfer Form' i.e. Form SH-4 has been revised to

include a declaration from the transferee that "no Govt. approval is required under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 prior to the transfer of shares or where the transferee is required to obtain the Govt. approval prior to the transfer of shares, the same has been obtained and enclosed here with the form."

LETTER REF. NO. SEBI/HO/CFD/DCR1/MB/OW/P/2021/29815/1, DATED 25-10-2021

Transactions of the amalgamation scheme will be exempt from making open offers under SEBI (SAST) Regulations, 2011; SEBI

Editorial Note : SEBI through its informal guidance clarified that the transactions forming part of the amalgamation scheme will be exempt from making open offer under regulation 3 and 4 of SEBI (Substantial Acquisition Of Shares And Takeovers) Regulations, 2011 provided the amalgamation scheme is approved by NCLT.

NOTIFICATION NO. G.S.R 338(E), DATED 05-05-2022

Now body corporates from border sharing countries can't invest in privately placed securities without Govt.'s nod

Editorial Note : The MCA has notified the Companies (Prospectus and Allotment of Securities)

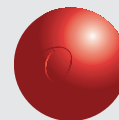
Amendment Rules, 2022. As per amended norms, a company shall not make any offer or invitation of securities to a body corporate incorporated in, or a national of, a country sharing a land border with India unless prior approval of Govt. has been taken by the body corporate under the FEM (Non-debt Instruments) Rules, 2019. The same is required to be attached with private placement offer cum application letter (PAS-4).

GENERAL CIRCULAR NO. 2/2022, DATED 05-05-2022

Extension of timelines to hold AGM via VC/OAVM shouldn't be construed as an extension of time of AGM: MCA clarifies

Editorial Note : The MCA vide its earlier General Circular permitted companies whose AGMs are falling in the year 2022, to conduct their AGMs on or before December 31, 2022, through VC or OAVMs. Now, the MCA has clarified that this circular shall not be read as allowing any extension of time for holding of AGMs by the companies under the Companies Act, 2013. Further, the companies which fail in holding AGM within the specified time limit shall be liable for legal action under the Companies Act.

GENERAL CIRCULAR NO. 03/2022, DATED 05-05-2022



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MCA further extends the timelines to conduct the EGMs via audio visual means up to Dec 31, 2022
Editorial Note : MCA through its circular dated 05th May, 2022 has permitted companies to conduct their Extra Ordinary General Meetings (EGMs) through VC or other Audio Video Means (OAVM) or to transact items through postal ballot up to December 31, 2022, in accordance with the framework as provided in earlier Circulars issued by the MCA. Earlier the MCA had permitted companies to conduct EGMs through VC till June 30, 2022.

**NOTIFICATION NO. S.O. 2099(E),
DATED 05-05-2022**

Govt. designates the Court of Additional Judicial Commissioner, Ranchi as the 'Special Court' under Cos Act, 2013

Editorial Note : Central Government has designated the Court of Additional Judicial Commissioner, Ranchi in the State of Jharkhand as the Special Court under Section 435 of the Companies Act, 2013 with the objective of providing a speedy trial of offences punishable with imprisonment of 2 years or more.

**NOTIFICATION NO. SEBI/LAD-NRO/GN/2022/83,
DATED 04-05-2022**

SEBI specifies separate non-refundable filing fees be paid by InvIT for initial offer and right issues

Editorial Note : SEBI has notified the SEBI (InvITs) (Amendment) Regulations, 2022. Now InvITs are required to pay non-refundable filing fees of 0.1% in case of initial offer and 0.05% in case of right issue of the total issue size including green shoe option at the time of filing of draft placement memorandum or offer letter w.r.t private placement. Earlier, the InvIT was required to pay non-refundable filing fees of 0.1% of the total issue size irrespective of the type of issue.

**PRESS RELEASE NO. 15/2022,
DATED 06-05-2022**

SEBI constitutes advisory committee on Environmental, Social and Governance (ESG) matters

Editorial Note : The SEBI has constituted a committee for advising on ESG-related matters in the securities market. The terms of reference of the Committee includes enhancements in business responsibility and sustainability report (BRSR), disclosures in the rationale by ESG rating providers on what and how qualitative factors were factored in the ESG ratings / observations, examining whether ESG funds need to have prudential norms, long term plan to prescribe ESG disclosures for all the Mutual Fund schemes etc

**CIRCULAR NO. SEBI/HO/CFD/SSEP/CIR/P/2022/66,
DATED 19-05-2022**

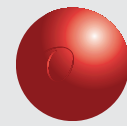
SEBI streamlines the rights issue process

Editorial Note : SEBI vide. Circular dated January 22, 2020, had stipulated procedures streamlining Rights Issue process. Based on market representation that there should be a minimum gap of 3 working days considering 2 days for settlement and 1 additional day for investor to make application, the SEBI has notified that trading in Right Entitlement shall commence on date of opening of issue and shall be closed at least 3 days prior to closure of rights issue. An earlier the timeline was of 4 days.

NOTIFICATION NO. G.S.R 363(E), DATED 20-05-2022

MCA replaces the physical form INC-9 for filing of a declaration by subscribers and first directors with E-form

Editorial Note : The MCA has notified the Companies (Incorporation) Second Amendment Rules, 2022. As per the amended norms, MCA has replaced physical form with the E-form INC 9 with respect to the filing of declaration by the subscribers and first directors to memorandum of



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company to the effect that they are not guilty of any offence and has made all the compliances with respect to filing of the documents with the Registrar at the time of incorporation of company.

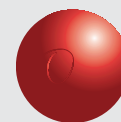
CIRCULAR NO. SEBI/HO/MRD 1 / M R D 1 _ D T C S / P / - CIR/2022/68, DATED 20-05-2022

SEBI modifies 'Cyber Security and Cyber Resilience Framework' for Stock Exchanges, Clearing Corporations & Depositories

Editorial Note : SEBI has modified the framework prescribed for Cyber Security and Cyber Resilience for stock exchanges, clearing corporations, and depositories. As per the modified

framework, more detailed norms are provided for the classification/designation of critical assets. Further, the report of the Vulnerability Assessment and Penetration Testing (VAPT) and gaps found therein should also be reported to SEBI. The circular is made effective immediately.





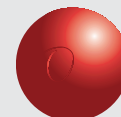
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Tax Compliance Calendar for June 2022

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7th June	May 2022	TDC/TCS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
10th June		a) GSTR-7 (TDS return under GST) b) GSTR-8 (TCS return under GST)	a) Person required to deduct TDS under GST b) Person required to collect TCS under GST
11th June		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 5 crore
13th June		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
		Invoice Furnishing Facility - IFF (Details of outward supplies of goods or services)	Taxable persons having turnover ≤ Rs. 5 crore and opted for QRMP Scheme
15th June			Deposit of PF & ESI contribution
	April-June 2022	Deposit of 15% (1st Installment) of Advance Tax for AY 2023-24	Taxpayers liable to pay advance tax
	January-March 2022 (non-salary) FY 2021-22 (salary)	a) Issue of quarterly TDS Certificate for non-salary payments b) Issue of annual TDS Certificate in Form 16 for salary payment	Non-Government Deductors
20th June	May 2022	a) GSTR-5 (Return by Non- resident) b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	a) Non-resident taxable person b) OIDAR services provider
		GSTR-3B (Summary return)	All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2021-22.



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25th June		Form GST PMT-06 (Payment of tax for Quarterly filers)	All taxable persons (except composition dealer) having annual turnover \leq Rs. 5 crore in FY 2021-22.
30th June	FY 2021-22	Filing of return of deposits / exempted deposits in form DPT-3	All Companies
		Modification of Importer-Exporter Code (IEC) details with Directorate General of Foreign Trade (DGFT)	All entities having Importer-Exporter Code (IEC) Certificate
		Furnishing of Form-1 (Equalization Levy Statement)	All Deductors

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