

DEVMANTRA TIMES

MARCH EDITION

ISSUE NO : 13, DATE : 01ST MARCH 2022

Editorial

Dear Readers,

We welcome you to the Budget **(Thirteenth)** edition of Devmantra Times for the month of **March 2022**.

Economic Growth

Indian economy grew by 5.4 per cent in the October - December quarter of 2021-22, according to the data released by the National Statistical Office (NSO). The gross domestic product (GDP) had expanded by 0.7 per cent in the corresponding period of 2020-21. In its second advance estimates of national accounts, the NSO has projected 8.9 per cent growth in 2021-22.

Effect of Russia - Ukraine Effect on economy

The ongoing conflict between Russia and Ukraine may impact certain high-frequency indicators like financial markets exchange rate and crude prices in the short-term without a long lasting effect on the economy as expected.

Impact on Trade

India runs trade deficit with Russia, with exports declining while imports are increasing. Oil forms a major part of our import basket from Russia.

Electrical machinery and equipment is our major export to Russia. However, the total trade is not that much (Russia's share is 1.3 per cent of total trade) and it is our top 25th trade partner.



Why this Volume of Newsletter is important for reader?

Through the series of this news letter, 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. 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



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GST REGULATORY UPDATES NOTIFICATION NO. 1/2022 - CENTRAL TAX [24-02-2022] E-INVOICING MANDATORY FOR TAXPAYERS HAVING TURNOVER MORE THAN 20 CR

Editorial Note - In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 13/2020-Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(i) vide number G.S.R. 196(E), dated 21st March, 2020, namely: In the said notification, in the first paragraph, with effect from the 1st day of April, 2022, for the words - fifty crore rupees, the words - twenty crore rupees shall be substituted.



NOTIFICATION NO. 56/2015-2020, DATED 24-02-2022 EXPORT POLICY OF INJECTION REMDESIVIR & REMDESIVIR ACTIVE PHARMACEUTICAL INGREDIENTS (API) REVISED TO 'FREE'

Editorial Note : The export policy of Injection Remdesivir and Remdesivir Active Pharmaceutical Ingredients (API), Amphotericin-B injections, Enoxaparin (Formulation and API) and Intra - Venous Immunoglobulin (IVIG) (Formulation and API) has been made 'Free' with immediate effect.

RECENT JUDICIAL RULINGS ON GST

**[2022] 135 taxmann.com 189
(Bombay) HIGH COURT OF
BOMBAY Dee Vee Projects Ltd.
v. Government of Maharashtra**
**Editorial Note: In this important
Judgement the following issues
have been addressed which is a
welcome judgement-**

Order blocking electronic credit ledger without showing satisfaction of the authority on the necessity and without reasons in writing is arbitrary and illegal Order blocking electronic credit ledger under Rule 86A does not amount to provisional attachment of property as custody of property (ITC) remains with taxpayer and no proceedings

have been initiated under specified provisions as required under Section 83

Disallowing debit of an amount from electronic credit ledger is blocking of such ledger and it cannot be for an amount which is more than the amount found to be fraudulently or wrongly availed; Authority not empowered to impose blanket prohibition

Writ petition is maintainable as appellate remedy or revisional remedy is not available against order passed under Rule 86A blocking use of electronic credit ledger

Deputy Commissioner being higher in rank than Assistant Commissioner and authorised by Commissioner, has jurisdiction to pass order to block electronic credit ledger under Rule 86A

**[2022] 135 taxmann.com 157
(AAR - MAHARASH-
TRA)[08-02-2022]**

GST : Drilling and blasting for tunnel construction involves both goods and services and is a composite supply of works contract attracting 12%

Composite supply - Drilling and blasting for tunnel - Agreement for construction of two tunnels as part of expressway project - Main contractor engaged applicant as sub-contractor for blasting and

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drilling work - Advance ruling sought on whether the activity carried out shall be classified as supply of goods or services or a composite supply of works contract - HELD: Various goods including explosives, tools and other material are used in the process of blasting - Element of goods involved in the transaction - Supply of service is in the form of drilling and blasting and clearing of rubble - Service of drilling and blasting cannot be conducted without the use of explosives - Blasting activity involves both goods as well as services - Impugned activity can be classified as composite supply of works contract for construction of tunnel - GST rate of 12% will be applicable - Section 2(30) of Central Goods and Services Tax Act, 2017/Section 2(30) of Maharashtra Goods and Services Tax Act, 2017 [Paras 5.5, 5.7, 5.8, 5.9.2, 5.10.4]

[2022] 135 taxmann.com 287
(Karnataka)[07-02-2022]

GST : Residential premises rented as hostel to students and working professionals is covered under residential dwelling being used as residence and eligible for exemption HIGH COURT OF KARNATAKA Taghar Vasudeva Ambrish v.

Appellate Authority for Advance Ruling, Karnataka

Editorial Note - Residential renting - Whether leasing of residential premises as hostel to students and

working professionals for long term accommodation is service by way of renting of residential dwelling for use as residence and eligible for exemption - HELD: Expression 'residential dwelling' to be understood in popular sense / common parlance - Residential dwelling in normal trade parlance means any residential accommodation and is different from hotel, motel, inn, guest house etc. which is meant for temporary stay as per service tax education guide issued by CBIC and the same is binding on department - Residential dwelling is being rented as hostel to students and working professionals fall within purview of residential dwelling as the same is used by such persons as residence - Benefit of exemption notification cannot be denied on the ground that lessee is not using the premises as no requirement that lessee itself should use the premises - Finding recorded by Appellate Authority for Advance Rulings (AAAR) that hostel accommodation is more akin to sociable accommodation is unintelligible and not relevant - Petitioner is entitled to benefit of exemption notification - Ruling delivered by AAAR Karnataka quashed - Writ petition allowed - Section 6 of Integrated Goods and Services Tax Act, 2017 [Paras 12,13,14,15,16 and 17] [In favour of petitioner]



INCOME TAX

REGULATORY UPDATES

CIRCULAR F. NO. 500/107/2015 -FT&TR-III CLARIFICATION ON FAQ 6 (REPORTING) AND FAQ 3 (REPORTING) ISSUED BY U.S. IRS IN RESPECT OF FATCA REPORTABLE ACCOUNTS CIRCULAR F. NO. 500/107/2015 -FT&TR-III, DATED 31-1-2022

The Indian RFI(Reporting Financial Institutions) should ensure that the U.S. TIN is reported in respect of all U.S. Reportable accounts. However, if the U.S. TIN is not obtained, the RFI may populate the TIN field with specified codes in scenarios mentioned in the FAQ 6 (reporting) of U.S. IRS. It is to be noted that in all such cases where TIN has not been obtained, the U.S. IRS system will still generate an error notification to indicate that the entry is invalid when one of the above mentioned codes are used. If none of the specified codes as highlighted in FAQ 6(reporting) are applicable to the facts of a particular

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scenario and the TIN has not been obtained, the RFIs are advised as per FAQ 3(reporting) of U.S. IRS to populate the TIN field with nine times A or 0 (zero) which will also generate an error notification. The error notification in either case will provide 120 days to correct the issues. If the U.S. TIN is not provided within that 120 day period, the U.S. will evaluate the data received and determine through a consideration of facts and circumstances if there is significant non-compliance. RFIs are requested to follow the above guidance in respect of reporting of U.S. reportable accounts. Additionally, RFIs are requested to suitably revise the reports submitted in Form 61B in respect of U.S. reportable accounts

**CIRCULAR NO. 3/2022 [F.NO. 503/1/2021-FT&TR-I]
CLARIFICATION REGARDING THE MOST-FAVOURLED-NATION (MFN) CLAUSE IN THE PROTOCOL TO INDIA'S DTAAS WITH CERTAIN COUNTRIES
CIRCULAR NO. 3/2022 [F.NO. 503/1/2021-FT&TR-I], DATED 3-2-2022**

It is hereby clarified that the applicability of the MFN clause and benefit of the lower rate or restricted scope of source taxation rights in relation to certain items of income (such as dividends, interest income, royalties, Fees

for Technical Services, etc.) provided in India's DTAAs with the third States will be available to the first (OECD) State only when all the following conditions are met:

(i) The second treaty (with the third State) is entered into after the signature/Entry into Force (depending upon the language of the MFN clause) of the treaty between India and the first State;

(ii) The second treaty is entered into between India and a State which is a member of the OECD at the time of signing the treaty with it;

(iii) India limits its taxing rights in the second treaty in relation to rate or scope of taxation in respect of the relevant items of income; and

(iv) A separate notification has been issued by India, importing the benefits of the second treaty into the treaty with the first State, as required by the provisions of sub-section (1) of Section 90 of the Income-tax Act, 1961.

If all the conditions enumerated in Paragraph 5(i) to (iv) are satisfied, then the lower rate or restricted scope in the treaty with the third State is imported into the treaty with an OECD State having MFN clause from the date as per the provisions of the MFN clause in the DTAA, after following the due procedure under the Indian tax law.

6. Notwithstanding the clarification given in the above paragraphs, where in the case of a taxpayer there is any decision by any court on this issue favourable to such taxpayer this Circular will not affect the implementation of the court order in such case.

RECENT JUDICIAL RULINGS ON INCOME TAX

2022] 135 taxmann.com 335 (Mumbai - Trib.) [25-02-2022]

INCOME TAX : CIT cannot invoke section 263 on a matter considered by CIT(A) especially when CIT(A) has directed AO to make additions on it

Editorial Note-CIT cannot invoke section 263 on a matter considered by CIT(A) in view of doctrine of merger especially when Revenue's appeals on it has been dismissed by ITAT due to low tax effect. Revision u/s 263 cannot be exercised on a matter considered by CIT(A) when he has directed AO to make additions on a matter, as essential ingredient.

2022] 135 taxmann.com 286 (SC) [22-02-2022]

INCOME TAX: No deduction under Section 37(1) for 'freebies' given by pharma companies to doctors, as it is "prohibited by law"& hit by Explanation 1 to Section 37(1)

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Editorial Note :Pharmaceutical companies' gifting freebies to doctors, etc., is clearly "prohibited by law" and hit by Explanation 1 to section 37(1), and not allowed to be claimed as a deduction under Section 37(1). When acceptance of freebies by medical practitioners is punishable by the MCI (the range of penalties and sanction extending to ban imposed on the medical practitioner), pharmaceutical companies cannot be granted the tax benefit for providing such freebies, and thereby (actively and with full knowledge) enabling the commission of the act which attracts such opprobrium.

2022] 135 taxmann.com 348 (Delhi)[16-02-2022]

INCOME TAX : Rent received by trust from substantial contributor is 'adequate', if it exceeds municipal value for house tax; section 13(2)(b) cannot be invoked

Editorial Note: Where rent received by trust from substantial contributor exceeds MCD value for house tax, in the absence of any contrary evidence, the rent cannot be termed as inadequate and property cannot be deemed to be applied for benefit of the substantial contributor to whom it was let out.

- Mere non-acceptance of security deposit by the trust from substantial contributor is not determinative of inadequacy of rent charged by trust

to substantial contributor for trust property let out to him.

- In the present case, the Assessing Officer, apart from relying upon some opinion of rent from property broker firms and websites, does not appear to have made any independent inquiry on the adequacy of the rent being charged by the respondent/assessee from Hamdard Dawakhana (Wakf).

- It is not shown that the Assessing Officer made any independent inquiry on the age and condition of the building of the assessee situated at Asaf Ali Road, New Delhi.

- In fact, as contended by the learned senior counsel for the respondent/assessee and taken note of by the learned ITAT and not denied by the appellant/revenue, the property at Rajdoot Marg was not even ready during Assessment Year 2008-09 and was lying vacant.

- In the absence of any such inquiry by the Assessing Officer, the invocation of Section 13(2)(b) of the Act was clearly flawed and rightly rejected by the learned ITAT.



CORPORATE LAW UPDATES

CIRCULAR NO. SEBI/HO/M-RD2/DCAP/P/CIR/2022/0022, DATED 24-02-2022

SEBI further extends timelines for Segregation, Monitoring of Collateral at Client Level

Editorial Note : On the basis of representations received from various stakeholders, the SEBI has extended the timelines to comply with SEBI Circular on Segregation and Monitoring of Collateral at Client Level dated July 20, 2021. The extension is provided till May 02, 2022. Earlier the timeline was given till Feb 28, 2022. This is the Second time extension granted by SEBI. The original timeline to comply with the circular was Dec 01, 2021 which was later on extended by SEBI till Feb 28, 2022.

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MCA mandates that any Complaints/Inquiries/Investigations/prosecution initiated against companies and LLP to be reported to MCA first

Editorial Note : In order to keep the track of all the complaints, the MCA has mandated that the ROC and RD must to enter all cases of complaints against the Companies and the LLPs, Inspections, Inquiries, etc in the MCA Electronic registry first before issuing any letter, notice etc to the respective Company/LLP. On reporting a Unique SRN will be generated which will be quoted in all further communications. MCA further clarified all communications issued by ROC & RD without SRN shall be treated as unauthorised.

CIRCULAR NO. SEBI/LAD-NRO/GN/2022/74, DATED 23-02-2022

SEBI tightens norms for registration of stockbrokers; Hikes Net worth requirement to Rs. 5 Crores

Editorial Note : SEBI has notified SEBI (Depositories and Participants) (Amendment) Regulations, 2022 whereby it has hiked the networth requirement. Under extant norms, a stockbroker shall have a net worth of Rs. 3 crores [within 1 year of date of notification of the SEBI (Depositories and Participants) (Amendment) Regulations, 2022], which shall be increased to Rs. 5 crores [within 2 yrs of date of notification].



NOTIFICATION NO. SEBI/LAD-NRO/GN/2022/73, DATED 23-02-2022

SEBI amends Stock Brokers norms; insert provisions relating to Electronic Gold Receipts, hikes net worth requirement

Editorial Note : SEBI has modified the stock Brokers Regulations, 1992 whereby it has inserted provisions w.r.t to the EGR segment (a new segment introduced by SEBI earlier). Further, the amendment regulation defines who will be treated as a “professional clearing member”. The existing tables specifying the quantum of net worth and deposit to be maintained by the trading member, self-clearing member/ clearing member/ professional clearing member, etc. have also been substituted with new tables.

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Tax Compliance Calendar for Maarch 2022

Compliance Due Date	Concerned (Reporting)Period	Compliance Detail	ApplicableTo
7th March	February 2022	TDC/TCS deposit	Non-government Deductors
		Equalization Levy deposit	All Deductors
10th March		a)GSTR-7(TDS return under GST)	a)Person required to deduct TDS under GST
		b)GSTR-8(TCS return under GST)	b)Person required to deduct TCS under GST
11th March		GSTR-1(Outward supply return)	Taxable persons having turnover > Rs.5crore
13th March		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.5crore
15th March		Deposit of PF&ESI contribution	All Deductors
	A Yr 2022-23	Fourth installment of advance tax for the assessment year 2022-23” “Due date for payment of whole amount of advance tax in respect of the assessment year 2022-23 for assessee covered under presumptive scheme of section 44AD / 44ADA”	
	FY 2020-21	Return of Income for Corporate Assesseees	
		Form AOC-4 (Annual accounts)	All Companies are required to file Annual accounts with ROC

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20th March	February 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)
25th March			having annual turnover > Rs. 5 crore in FY 2020-21
		Form GST PMT-06 (Payment of tax for Quarterly filers)	All taxable persons (except composition dealer) having annual turnover < Rs. 5 crore in FY 2020-21
28th March	February 2022	GSTR11-Statement of Inward Supplies received by persons having UIN	
31st March		“Due date for linking of Aadhaar number with PAN. The due date for linking of Aadhaar number with PAN has been extended to March 31, 2022 vide Notification S.O. 3814(E), dated 17-9-2021”	
31st March	2022-23	RFD 11 -Application for LUT	
31st March	2022-23	CMP-02-Intimation to opt for composition scheme	