

# DEVMANTRA TIMES

## MAY EDITION

ISSUE NO : 27, DATE : 1<sup>ST</sup> MAY 2023

**Dear Readers,**

We welcome you to the Twenty Seventh edition of Devmantra Times for the month of May 2023.

**Economic Updates**

**INDIA'S ECONOMY SIGNALS RESILIENCE EVEN AS EXPORTS DIM OUTLOOK**



India's economy stayed strong in March despite declining exports and rising unemployment. Bloomberg's activity tracker, which follows eight high-frequency indicators, showed that India's economy remained stable during the month. The Reserve Bank of India has paused rates for the first time in months in order to assess the impact of higher interest rates on economic activity. While the readings are positive, concerns remain due to a slowdown in demand for manufacturing goods and services. Additionally, the unemployment rate has increased to 7.8%.

**INDIA EMPLOYMENT RATE INCREASES TO 36.9% IN MARCH QUARTER, UP FROM 36.6% IN DECEMBER**

India's labour market has witnessed an improvement with over 15 million people entering the workforce in the last three quarters, shared the Centre for Monitoring Indian Economy. More than 11.2 million people gained employment, indicating that a higher number of willing workers were able to secure jobs. The country's employment rate increased to 36.9% in March 2023 from 36.6% in December 2022, while the number of unemployed persons dropped by almost two million highlighting that many individuals were able to secure jobs.

**WORLD BANK LOWERS INDIA FY24 GROWTH FORECAST TO 6.3%**

The finance ministry's Economic Survey has projected economic growth to be 6.5 per cent in the 2023-24 fiscal beginning April 2023, while the RBI has projected India's economic growth to slow down to 6.4 per cent in FY24 from 7 per cent in the previous fiscal.



**ECONOMISTS EXPRESS CONCERN AS INDIA TOPS GLOBAL POPULATION CHART**

As the global economy recovers from the Covid-19 pandemic, India has emerged as one of the fastest-growing economies in the world. However, economists have been concerned about the prevalent inequalities in society. As the low-to-mid income generating population largely feels the heat, consumption is seeing a sharp slowdown, and household savings have slumped to a three-decade low

**Startup updates**

**Cognecto raises Rs 4 Cr** in a seed round AI solution firm Cognecto has raised Rs 4 crore in a seed round led by Inflection Point Ventures. The company said that it plans to use the funds to develop Regenerative Artificial Intelligence technology that is aimed at providing valuable business and operational insights for the mining and construction sectors.

**ACIC-BMU announces \$1M funding for startup enthusiasts**

The Atal Community Innovation Centre at BML Munjal University (ACIC-BMU) has announced \$1 million funding for startup enthusiasts at Propel Pitchfest23. Propel Pitchfest23, a two day event on April 27 and 28, 2023, will witness startups and student ventures from across India pitch their ideas to a jury

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of investors and founders, receive feedback, gain recognition, and win prizes.

**JM Financial, Google Cloud announce partnership**  
**GoogleCloud and JM Financial have** revealed a strategic collaboration to help the latter build its retail digital customer base and improve its digital customer experience strategy.

**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. 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**

#### **Updated Advisory by GSTN on time limit for reporting invoices on the IRP Portal**

Editorial Note : The GSTN has issued updated advisory to inform that a time limit is imposed on reporting documents on the e-invoice IRP portals for taxpayers with AATO greater than or equal to 100 crores. To ensure timely compliance, the taxpayers in this category will not be allowed to report documents older than 7 days on the date of reporting. Please note that this restriction will apply to the all document types for which IRN is to be generated.

### **RECENT JUDICIAL RULINGS ON GST**

#### **SECTION 29 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - CANCELLATION OF**

Where appellate authority had not taken into account Apex Court's

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order regarding cognizance for extension of limitation and had accordingly failed to pass appropriate orders in appeal that sought revocation of cancellation of GST registration, matter was to be reconsidered - Amesh Basumatary v. Union of India - [2023] 149 taxmann.com 420 (Gauhati)

**SECTION 54 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REFUND - TAX, REFUND OF TAX paid under protest during investigation being collected without authority of law was liable to be refunded - Diwakar Enterprises (P.) Ltd. v. Commissioner of CGST - [2023] 149 taxmann.com 419 (Punjab & Haryana)**

**SECTION 107 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - APPELLATE AUTHORITY - APPEALS TO**

Statutory benefit of stay under section 112(9) was not to be denied to petitioner due to non-constitution of GST Tribunal by authorities themselves - Kumar Ram Ranjan Singh v. State of Bihar - [2023] 149 taxmann.com 418 (Patna)

**SECTION 7 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - SCOPE OF**

Since transportation service is not a supply for applicant-assessee as

it is not made in course of business or furtherance of business and applicant is receiver of services and not supplier of same, therefore, recoveries made by applicant from their employees for transportation service do not fall under definition of supply under section 7 and hence, GST is not applicable - Brandix Apparel India (P.) Ltd., In re - [2023] 149 taxmann.com 396 (AAR - ANDHRA PRADESH)



**SECTION 9 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY & COLLECTION OF TAX**

Since canteen service is not a supply for applicant-assessee as it

is not made in course of its business or furtherance of its business and applicant is receiver of services not supplier of same, therefore, recoveries made by applicant from their employees for canteen service do not fall under definition of supply under section 7 and they are not liable for imposition of GST - Brandix Apparel India (P.) Ltd., In re - [2023] 149 taxmann.com 396 (AAR - ANDHRA PRADESH)

**SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY**

Where assessee was called by authority to remain present on 15-10-2019 and on same date order under section 130 was passed, it resulted into denial of reasonable opportunity to assessee to defend in proceedings and hence order passed in violation of principles of natural justice and was to be set aside - Ashok Singh v. State of Gujarat - [2023] 149 taxmann.com 398 (Gujarat)

**SECTION 132 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - OFFENCES - PUNISHMENTS FOR CERTAIN OFFENCES**



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Anticipatory bail was to be granted to accused of claiming ITC fraudulently - Bal Mukund Vaishnav v. State of Maharashtra - [2023] 149 taxmann.com 397 (SC)

### INCOME TAX

#### REGULATORY UPDATES

NOTIFICATION S.O. 1692 ( E )  
[ N O . 2 1 / 2 0 2 3 / F . N O .  
370142/5/2023-TPL], DATED  
10-04-2023

#### **CBDT notifies '348' as Cost Inflation Index (provisional) for Financial Year 2023-24**

Editorial Note : The CBDT vide Notification No. 21/2023, dated 10-04-2023, has notified '348' as the Cost Inflation Index (provisional) for the Financial Year 2023-24. If a long-term capital asset is transferred, the capital gains is computed after deducting the indexed cost of acquisition instead of just the cost of acquisition. Such indexation of the cost of acquisition is determined based on the Cost Inflation Index.

#### **NOTIFICATION NO. 18/2023, NOTIFICATION NO. 19/2023 AND NOTIFICATION NO. 20/2023, DATED 10-04-2023**

CBDT notifies 'CBSE' and 'GNIDA' for exemption under Sec. 10(46)  
Editorial Note : The Central Board of Direct Taxes (CBDT)

has notified 'Central Board of Secondary Education' and 'Greater Noida Industrial Development Authority' for the purposes of clause (46) of section 10 of the Income-tax Act, 1961.



#### **CIRCULAR NO. 4 OF 2023, DATED 05-04-2023**

#### **Employer to deduct tax as per new tax regime if employee didn't intimate about opting of old regime: CBDT**

Editorial Note : The Central Board of Direct Taxes (CBDT) has issued clarification on the deduction of tax at source (TDS) by employers on the salaried income of the employee w.e.f AY 2024-25. The employer shall seek information from each employee regarding their intended tax regime. If the employee makes no intimation, the employer will deduct the tax following the new tax regime under section 115BAC.

#### **RECENT JUDICIAL RULINGS ON INCOME TAX**

#### **SECTION 9 OF THE INCOME-TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE ARISE IN INDIA**

Business profits - Race promotion fee : Where assessee, a UK resident company, entered into race promotion contract (RPC) with JAL granting right to host Indian Grand Prix and assessee earned RPC fee and RPC fee received by assessee was held taxable in India and JAL was obliged to deduct TDS, since TDS credit claimed by assessee being not part of income offered to tax in returns of income and TDS credit was over and above actual RPC fee paid to assessee by JAL, then said TDS credit had to be taxed in same way as RPC was taxed in India - Formula One World Championship Ltd. v. Deputy Commissioner of Income-tax, International Taxation, Noida - [2023] 149 taxmann.com 191 (Delhi - Trib.)

#### **SECTION 14A OF THE INCOME-TAX ACT, 1961 - EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME**

Scope of provision : Where assessee earned exempt income and submitted computation of inadmissible expenditure under section 14A, since Assessing Officer had not recorded any satisfaction that working of inadmissible expenditure under section 14A by assessee was

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incorrect, interest expenditure could not be disallowed - Principal Commissioner of Income-tax v. Godrej & Boyce Mfg. Co. Ltd. - [2023] 149 taxmann.com 222 (Bombay)

### SECTION 69A OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED MONEYS

Bogus sales : Where Assessing Officer issued a reopening notice on ground that an information was received that assessee was beneficiary of accommodation entries by way of bogus sales from a shell entity, since there was no material or basis for Assessing Officer to hold that transaction between assessee and said entity was not a genuine transaction of sale and further, Assessing Officer had not independently applied his mind to said information received to come conclusion that transaction in question was only a paper transaction, impugned reopening notice was to be quashed - B.U. Bhandari Auto lines (P.) Ltd. v. Assistant Commissioner of Income-tax - [2023] 149 taxmann.com 219 (Bombay)

### SECTION 80C OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - LIFE INSURANCE PREMIA, CONTRIBUTION TO



### PROVIDENT FUND, ETC.

Illustrations : Where Assessing Officer disallowed assessee's claim for deduction under sections 80C and 80TTA as assessee had failed to respond to several notices issued under sections 142(1) and 143(2), assessee could not challenge such assessment on basis that he was not afforded personal hearing by Assessing Officer - Suyambulingam Suresh v. Income-tax Officer - [2023] 149 taxmann.com 218 (Madras)

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

Adjustments - Aggregation of transactions : Where assessee paid technical support services fee to its AE, since there was an increase in turnover of 33 per cent and assessee had submitted Technical Services Agreement before TPO, TPO was not justified in disallowing said fee on basis that assessee did not provide any

documentary evidence to prove said service - Teejay India (P.) Ltd. v. Assistant Commissioner of Income-tax - [2023] 149 taxmann.com 196 (Visakhapatnam - Trib.) taxmann.com 196 (Visakhapatnam - Trib.) Adjustments - Working capital adjustments : No upward adjustment on outstanding receivables was required, when there was no impact of working capital adjustment on profits of assessee vis-à-vis its comparables - Teejay India (P.) Ltd. v. Assistant Commissioner of Income-tax - [2023] 149 taxmann.com 196 (Visakhapatnam - Trib.)

Adjustments - Interest : Once impact of receivable on working capital is evaluated and consequent profitability/pricing is compared vis-a-vis draft comparables, there is no requirement of any further adjustment only on basis of outstanding receivables - Kronos Solutions India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2023] 149 taxmann.com 194 (Delhi - Trib.)



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### SECTION 271(1)(c) OF THE INCOME-TAX ACT, 1961 - PENALTY - FOR CONCEALMENT OF INCOME

Opportunity of hearing : Where Assessing Officer issued on assessee a notice under section 271(1)(c) on 28-11-2022 at 2:40 PM asking to appear in person on 29-11-2022, since notice provided less than 24

hours to assessee to appear, this shorter period could be termed as a breach of principles of natural justice - Checkmate Services (P.) Ltd. v. Assistant Commissioner of Income-tax - [2023] 149 taxmann.com 220 (Gujarat)

### CORPORATE LAW UPDATES

**CIRCULAR NO. SEBI/HO/IMD/IMD-RAC-2/P/CIR/2023/60, DATED 25-04-2023**  
**SEBI directs AMC's to file all final offer documents in digital format**

Editorial Note : SEBI has directed all Asset Management Companies (AMCs) to file their final offer documents in digital form only by emailing the same to a dedicated email address i.e. <mailto:imdsidfiling@sebi.gov.in>. Further, there will be no need to file physical copies of the same with SEBI. Also, all new fund offers (NFOs) must remain open for subscription for at least three working days. The provisions of this



circular shall be applicable from 01.05.2023.

**CIRCULAR NO. SEBI/HO/MIRSD/MIRSD-POD-1/P/CIR/2023/061, DATED 25-04-2023**

**SEBI bars Stock Brokers/Clearing Members from creating bank guarantees on clients' funds**

Editorial Note : The SEBI has barred Stock Brokers and Clearing Members from pledging their clients' funds with banks. Presently, stock brokers and clearing members pledge their clients' funds with banks, which in turn issue bank guarantees to clearing corporations for higher amounts. Now, from May 01, 2023, no new bank guarantees shall be created out of clients' funds by stock brokers. Also, existing BGs created out of clients' funds must be wound down by September 30, 2023.

**ICSI floats the revised format of Annual Secretarial Compliance Report (ASCR)**

Editorial Note : The ICSI has revised the format of the Annual

Secretarial Compliance Report (ASCR) to make it easier for Practising Company Secretaries to issue the ASCR. Regulation 24A in SEBI (LODR) Regulations, 2015 requires a listed entity and its material unlisted Indian subsidiaries to annex an ASCR by the PCS in its annual report. In this regard, the ICSI has floated the revised format.

**REGULATIONS 3 OF THE SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 -PROHIBITION OF DEALING IN SECURITIES**

Where SEBI imposed penalty of Rs. 10.30 crores on appellant company for violation of regulations 3 and 4 of 'PFUTP Regulations', in view of fact that against various other companies for similar/identical offences, SEBI had only awarded a penalty of Rs. 25 lakh, penalty imposed in instant case was excessive and, therefore, was to be reduced to Rs. 25 lakhs - Jindal Cotex Ltd. v. Securities & Exchange Board India - [2023] 149 taxmann.com 231 (SAT - Mumbai)

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### Tax Compliance Calendar for May 2023

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7th May	April 2023	TCS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
11th May	April 2023	GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13th May		GSTR-6 [Return by input service distributor (ISD)] a) GSTR-5 (Return by Non- resident). b)GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	Person registered as ISD Non-resident taxable person (NRTP) b)OIDAR services provider
15th May	April 2023	Deposit of PF & ESI contribution	All Deductors
20th May	April 2023	GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for QRMP scheme
30th May	2022-23	Form 11	All LLPs
	April 2023	TDS Payment in Form 26QB (Property), 26QC (Rent), 26QD (Contractor Payments) for Apr 2023	All as applicable

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	Jan to March 2023	Issue of TCS Certificates in Form 27D for Jan to March 2023	All
31st May	April 2023	TDS Return in Form 24Q, 26Q, and 27Q for Jan-Mar 2023	All Deductors
	2022-23	Due date for furnishing of statement u/s 285BA For FY 2022-23 (For Banks etc.) Form 61A SFT	All as applicable.

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