

DEVMANTRA TIMES

NOVEMBER EDITION

ISSUE NO : 10, DATE : 01ST NOVEMBER 2021

Editorial

Dear Readers,

We welcome you to the ninth edition of Devmantra Times for the month of November 2021.

Unicorns boom in India in the year 2021

A 2020 NASSCOM - Zinnov Report predicted that with investments in start-ups expected to recover in 2021 (post the slump in 2020 due to Covid-19), India would add at least 9-11 unicorns in calendar year 2021. Nine months into 2021, India has already added 28 unicorns this year, taking the total number of unicorns in India to over 65. Of the 28 unicorns added this year, Fintech has contributed the highest number of unicorns by industry, closely followed by the e-Commerce, SaaS and marketplace segments. Globally, the e-commerce segment lead in terms of number of unicorns, followed by Artificial Intelligence and FinTech. However, globally as well as in India, FinTech dominates in terms of valuation. India has the second largest base of internet subscribers, smart-phones and social media user base and the highest FinTech adoption rate of 87%. With rapid digital adoption by customers, FinTech companies in India are well-positioned to capitalize the internet penetration.

Increased Borrowing by states

Amidst the raging pandemic and on account of the lockdown, the economic activity in the country

came to stand still which resulted in the plummeting of the revenue receipts of the States. States were forced to borrow to meet the increasing health expenditure and to push the economy back on track. Further, the delay in arriving at a consensus for settling the shortfall in collection of compensation cess aggravated the financial burden of State governments. Both the Interest-to-Revenue Receipts and Total Outstanding Liabilities -to-GSDP has increased predominantly for all the States. Though borrowings by the State governments is a usual affair every year, the borrowings being made to meet primarily its revenue expenditure for the year 2020 - 21 is a concern and with the economy showing signs of improvement, the State governments should now focus on fiscal consolidation. Post the adoption of GST, the rates of indirect taxes are being decided by the GST Council and the States have very few other sources to increase the revenue. This is being raised as a concern by many States. The increase in GST collections over the last few months is a positive sign however, it would be imperative to see how the States manage their financial position.

Telecom sector reforms

The Union Cabinet, on September 15th, 2021, had approved a number of structural and process reforms for the telecom sector.

The reforms include a 4-year moratorium on the Telecom Service Providers' (TSPs) dues to the government, rationalization of the definition of Adjusted Gross Revenue (AGR), change in computation of interest (compounding shall now be done on an annual basis, instead of monthly basis) and an increase in the tenure of spectrums in future auctions, amongst others. The market was quick to positively react to the news with Vodafone Idea being the major gainer, as the reforms come as a tremendous relief to the capital-starved company, which is liable to pay close to Rs. 50,400 crores as AGR dues. The dues of Bharti Airtel and Reliance Jio are much lower at Rs. 25,980 crores and Rs. 25,194 crores respectively. Recently, on 20th October, Vodafone Idea opted for the four-year spectrum payment moratorium, under the newly introduced reforms. There was a surge seen in the market with this move of Vodafone Idea and resultantly, the price of shares of Vodafone Idea increased by 6% vis-à-vis the previous closing.

Record GST collections

The government collected Rs 1.3 lakh crore from goods and services tax (GST) during October, the second highest since the implementation of the tax in 2017, indicating a strong trend of the ongoing economic recovery in the second half of the financial year.

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With this edition we bring you a concise, noteworthy regulatory developments & interesting case laws in Income Tax, Goods & Services & Companies Act & SEBI. The sole purpose of this circulation is to update finance professionals and business owners on direct, indirect taxes & Corporate Laws.

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.

Post-COVID-19 comes the COVID-19 recovery, with many challenges ahead for businesses. We can only hope for a swift economic recovery in our country & worldwide. Tax reforms will accompany that recovery world wide and businesses should be able to adopt the same.

We wish that our professional association is blessed by Lord Ganesha and Goddess Laxmi and we grow together in synergy. Warm wishes on the occasion of Diwali to you. With the blessings of Lord

Ganesh and Maa Laxmi, we wish you the most prosperous and Happy Diwali. Thank you for all the work and trust on us, we are looking forward on this Happy Diwali 2021, filled with more work and opportunities for you. We are truly grateful for your trust in our company, we would like to do business with you for many years to come, have a wonderful Happy Diwali 2021.

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



REGULATORY UPDATES

CIRCULAR NO. 164/20/2021-GST, DATED 06-10-2021

CBIC issued clarifications regarding applicable GST rates & exemptions on certain services

Editorial Note: The CBIC has issued clarifications with reference to GST rates of certain services on the basis of recommendations of the GST Council in its 45th meeting held on 17th September, 2021. In this regard, a circular has been issued to provide those clarifications.

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CIRCULAR NO. 163/19/2021-GST, DATED 06-10-2021

CBIC issues clarification on GST rates & classification based on recommendations of the GST Council

Editorial Note: On the basis of recommendations of the GST Council in its 45th meeting held on 17th September, 2021, at Lucknow, the CBIC has issued clarification with reference to GST rate, levy and classification of certain goods. In this regard, a circular has been issued.

PUBLIC NOTICE NO. 28, DATED 14-10-2021

8424 MT sugar can be exported to USA from 01.10.2021 to 30.09.2022 under TRQ Scheme: DGFT

Editorial Note: The DGFT has notified quantity of 8424 MT sugar (raw and/or white sugar) to be exported to USA under TRQ scheme from 01.10.2021 to 30.09.2022.

NOTIFICATION NO. 39/2015-2020, DATED 14-10-2021

DGFT changed category of Diagnostic Kits and reagents from Restricted to Free

Editorial Note: The export policy had earlier placed 'all diagnostic kits and reagents (including instruments / devices)' under 'restricted' category and now it has been shifted to 'free' category.

TRADE NOTICE NO. 21/2021-2022, DATED 18-10-2021

Mandatory e-filing of Non-Preferential Certificate of Origin extended till 31st October, 2021: Notice

Editorial Note: The DGFT has issued trade notice to extend the mandatory electronic filing of Non-Preferential Certificate of Origin (CoO). Now the option of submission and issuance of CoO (Non-Preferential) by the issuing agencies through their paper-based systems may continue further up to 31st October, 2021.

GSTN issued advisory for availability of Input Tax Credit of FY 2020-21

Editorial Note: GSTN has issued advisory for taxpayers to ensure that their records pertaining to Financial Year 2020-21 are reported on or before the due date of their GSTR-3B for the month September 2021. It is informed that no taxpayer shall take input tax credit in respect records (invoices and debit notes) for Financial Year 2020-21 after the due date of furnishing the return of September 2021.

GSTN issues FAQs on Form GSTR-2B

Editorial Note: GSTN has issued FAQs relating to form GSTR-2B and clarified several issues such as when GSTR-2B is generated, what are the inputs for generating GSTR-2B and cut-off dates for GSTR-2B generation etc.

NOTIFICATION NO. 61 /2021-CUSTOMS (ADD), DATED 20-10-2021

No anti-dumping duty on import of "Phenol" from European Union, Singapore and Korea

Editorial Note: The Central Government revokes the anti-dumping duty imposed on "Phenol", falling under tariff item 2907 11 10, originating in or exported from the European Union, Singapore and Korea RP and imported into India.

OFFICE MEMORANDUM F.NO. 605/14/2021/-DBK/778, DATED 21-10-2021

Govt. constituted Committee for determination of RoDTEP rates for AA or EOU or SEZ exports

Editorial Note: The Government has constituted a Committee for determination of RoDTEP rates for AA/EOU/SEZ exports and to give a supplementary report / recommendations on issues or representations, if any. The Committee will submit its report to the Government within a total period of eight months.

NOTIFICATION NO. 13/2021 - CENTRAL TAX (RATE), DATED 27-10-2021

Permanent transfer of IPRs would be subject to 18% GST

Editorial Note: Based on the 45th GST Council meeting, the GST rate on permanent transfer of IPR under service tariff notification was increased from 12% to 18%. No such amendment was made in the rate notification of goods

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(as similar expression was also there). In order to avoid any ambiguities the amendment rate notification of goods has also been made to provide that GST rate of 18% on permanent transfer of IPRs.

RECENT JUDICIAL RULINGS ON GST



CLASSIFICATION OF SERVICES

Going concern service: Where applicant-AAI conducted bidding process for undertaking operation, management and development of certain airports of AAI on a public private partnership basis in which concessionaire who is successful bidder formed a Special Purpose Vehicle (SPV) to carry contract, said business arrangement between AAI and SPV is a supply of transfer of going concern service as per section 7(1) - Airport Authority of India, In re - [2021] 131 taxmann.com 249 (AAR - GUJARAT)

SECTION 7 & SECTION 15 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY

Scope of incentive given by Government to applicant bank under Sahay Yojana scheme is a consideration for applicant as incentive amount received by applicant is for performing and achieving success for said scheme and incentive amount is not passed on to customers who are getting loan, therefore, subject supply is covered under section 7(1)(a) and not covered under section 7(2); consideration received by Government in terminology of one-time incentive cannot adorn colour of actionable claim does not merit exclusion from valuation under section 15(2)(e) and therefore, subject incentive amount will be liable to GST - Rajkot Nagarik Sahakari Bank Ltd., In re - [2021] 131 taxmann.com 247 (AAR - GUJARAT)

RULE 9 OF THE CENVAT CREDIT RULES, 2004 - CENVAT CREDIT - DOCUMENTS TO AVAIL CREDIT

Debit note issued by importer in respect of import of machines and CVD paid thereon can also be valid document for availing credit - Kevin Process Technologies (P.) Ltd. v. Commissioner of Central Excise, Ahmedabad - [2021] 131 taxmann.com 323 (Ahmedabad - CESTAT)

CLASSIFICATION OF SERVICES

Supply of military or defence equipment through a goods transport

agency to different units of Government : Where applicant is a unit of Ordnance Factories Board and it manufactures ammunitions and explosive and non-explosive components and supplies same mainly to Indian defence, exemption on payment of GST on transport of military or defence equipments through a goods transport agency is applicable to goods transported by applicant - Senor General Manager, Ordnance Factory, In re - [2021] 131 taxmann.com 213 (AAR - MAHARASHTRA)

SECTION 9A OF THE CUSTOMS TARIFF ACT, 1975 - ANTI-DUMPING DUTY ON DUMPED ARTICLES

Where vide impugned order in writ petitions High Court had only issued notice to Government and parties to file Counter Affidavit and response, Apex Court would not intervene - Indian Solar Manufacturers Association v. Solar Power Developers Association - [2021] 131 taxmann.com 301 (SC)

SECTION 17 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - INPUT TAX CREDIT

Where applicant is a unit of Ordnance Factories Board and it manufactures ammunitions and explosive and non-explosive components and it has also let out some part of factory estate for commercial purposes on rent,

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of eligible input tax credit on inputs and input services relating to main business activity of manufacturing is not allowed against GST liability on renting of immovable property (which is an ancillary business activity) - Senor General Manager, Ordnance Factory, In re - [2021] 131 taxmann.com 213 (AAR - MAHARASHTRA)



SECTION 54 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REFUND - TAX, REFUND OF

Where petitioner exported certain goods on 28-6-2017 but shipping bill which should have got printed on 28-6-2017 got printed on 1-7-2017 and since GST was applicable with effect from 1-7-2017 and leviable on export of goods, shipping bill got printed on 1-7-2017 with petitioner's GST Identification Number and levy of IGST albeit with date of 29-6-2017, it was held that petitioner was entitled to refund to Integrated Goods and Service Tax (IGST) paid by it along with interest in respect of export of goods on 28-6-2017 - SRC Chemicals Private Limited v. Central Board of Indirect Taxes and Customs - [2021] 131 taxmann.com 314 (Bombay)



INCOME TAX REGULATORY UPDATES

NOTIFICATION NO. 118/2021/F. NO. 370142/47/2021-TPL, DATED 01-10-2021

CBDT notifies rules for implementing amendments made in provisions of indirect transfer of Indian assets

Editorial Note: Taxation Laws (Amendment) Act, 2021 provided that no tax demand shall be raised on basis of amendment to Section 9 of Income-tax Act vide Finance Act, 2012 for any offshore indirect transfer of Indian assets before 28-05-2012. The CBDT has notified Rule 11UE and Rule 11UF for implementing this amendment. Rule 11UE provides for specified conditions to claim relief and Rule 11UF provides form and manner of furnishing undertaking for withdrawal of pending litigation, claiming no cost, damages, etc.

NOTIFICATION NO. G.S.R. 723(E), DATED 06-10-2021

Govt. notifies PM CARES for Children Scheme, 2021

Editorial Note: The Govt has notified PM CARES for Children Scheme, 2021 effective from 06-10-2021. The upfront lumpsum consideration in the account shall become Rs. 10 lakh when the accountant holder attains the age of 18 years.

MNEs will be subject to a minimum 15% tax rate from 2023; two-pillar solution agreed by 136 countries

Editorial Note: On 08-10-2021, the major reform of the international tax system was finalized as the OECD will ensure that Multinational Enterprises (MNEs) will be subject to a minimum 15% tax rate from 2023. This landmark deal was agreed by 136 countries and jurisdictions out of 140, representing more than 90% of global GDP.

NOTIFICATION NO. S.O. 4207(E), DATED 11-10-2021

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CBDT exempts certain non-residents from furnishing ITR subject to fulfillment of conditions

Editorial Note: The Central Board of Direct Taxes (CBDT) has exempted certain non-resident persons from the requirement of furnishing of return of Income under section 139, subject to fulfillment of prescribed conditions. The benefit of exemption is available from Assessment Year 2021-22 onwards.

NOTIFICATION NO. G.S.R. NO. 737(E), DATED 13-10-2021

CBDT extends provisions of Rules 11UE & 11UF to Sec. 119 of Finance Act, 2012

Editorial Note: The TLA, 2021 has amended section 119 of the Finance Act, 2012 to provide that this Section shall cease to apply to the person who fulfils certain conditions, such as withdrawal or furnishing of undertaking for withdrawal of pending litigation etc. Later, the CBDT has notified final rules 11UE and 11UF to provide for the Form, manner and specified conditions in order to be eligible to claim relief under TLA 2021.

PRESS RELEASE, DATED 14-10-2021

Over 2 crore returns filed on new e-filing portal of Income-tax: CBDT

Editorial Note: The e-filing portal of the Income Tax Department (www.incometax.gov.in) has marked receipt of more than 2 crore Income Tax returns as on 13th October 2021. The new portal was launched on 7th June, 2021 and in the initial period taxpayers had reported glitches and difficulties in the functioning of the portal. However, the performance of the portal has substantially stabilized.

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NOTIFICATION GSR NO. 750, DATED 21-10-2021

Govt. notifies Sovereign Gold Bond Scheme 2021-22

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Editorial Note: The Government has notified Sovereign Gold Bond Scheme 2021-22. The Sovereign Gold Bonds will be issued in 4 tranches from November 2021 to March 2022. They will be sold through Scheduled Commercial banks, designated Post Offices, Stock Holding Corporation of India Ltd. (SHCIL), the authorized stock exchanges, and Clearing Corporation of India Limited (CCIL) or any other entity as may be approved by RBI.

CIRCULAR NO. 19/2021, DATED 26-10-2021

Sec. 10 (23FE) exemption is available only if source of investment in India is not from any borrowings: CBDT

Editorial Note: Sec. 10(23FE) exemption is available only if source of investment in India is not from any borrowings: CBDT

CIRCULAR NO. 18/2021, DATED 25-10-2021

Benefit of Sec. 36(1)(vii) available even if sugarcane price fixed by State Govt is more than price fixed by Central Govt

Editorial Note: The Central Board of Direct Taxes (CBDT) has clarified that the phrase 'price fixed or approved by the Government' in section 36(1) (xvii) includes price fixation by State Government through State-level Acts/Orders or other legal instruments that regulate

the purchase price for sugarcane. It also includes State Advised Price, which may be higher than the Statutory Minimum price/Fair and remuneration price fixed by Central Government.

NOTIFICATION NOS. S.O. 4443(E), S.O. 4444(E), DATED 25-10-2021

Govt. notifies Special Courts for Manipur, Goa, and Karnataka under Income-tax & Black Money Act

Editorial Note: The Central Government has notified the Special Courts for the State of Manipur, North Goa, South Goa, and Karnataka for the purposes of section 280A(1) of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

ORDER F.NO.225/155/2020/ITA-II, DATED 26-10-2021

CBDT authorizes DGIT (Systems) to upload assessee's financial information in Form 26AS

Editorial Note: The CBDT has authorized the Director-General of Income-tax (Systems) to upload various financial information related to the assessee in Form 26AS, within three months from the end of the month in which the information is received by her/him. Such financial information includes Foreign remittance reported in Form 15CC, info. of TDS statement, interest on income-tax refund, etc.

PRESS RELEASE, DATED 26-10-2021



Tax Dept. conducts searches in 'Punjab'; unaccounted income of Rs. 150 crore found

Editorial Note: The Income-tax Department has carried out search and seizure operations in the cases of two groups based in Punjab. The group is engaged in Cycle business and was found to be involved in suppression of income by showing bogus intra-group transactions within group concerns. The search action has led to detection of unaccounted income of about Rs. 150 crore

Delhi High Court notifies rules for video conferencing; allows public to view court proceedings

Editorial Note: The Delhi High Court has notified 'High Court of Delhi Rules for Video Conferencing for Courts 2021'. Video conferencing facilities may be used at all stages of judicial proceedings and proceedings conducted by the Court. The rules also allowed persons who are not parties to the case to view the proceedings.

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RECENT JUDICIAL RULINGS ON INCOME TAX

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

Business profits - Repair and maintenance services : Where assessee was rendering services by way of monitoring under-sea cable systems to company (TSL), standby maintenance charges received by assessee from TCL could not be assessed as FTS but as its 'business income' and receipts of standby maintenance charges from TCL had to be calculated on basis of apportionment of cable length in India vis-a-vis worldwide cable length - Reliance Globalcom Ltd. v. Deputy Commissioner of Income-tax (IT) 4(1)(1), Mumbai - [2021] 131 taxmann.com 260 (Mumbai - Trib.)

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

Provident fund, contribution to unrecognized provident funds : Notice issued in SLP filed against order of High Court that contribution made towards superannuation fund was to be treated as business expenditure and, thus, same was to be allowed as deduction under section 37(1) even though said fund was unapproved under Employee's Provident Funds Act, 1952 -

Commissioner of Income-tax, Chennai v. Tamilnadu Maritime Board - [2021] 131 taxmann.com 251 (SC)

SECTION 48 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - COMPUTATION OF

Deductions - Freehold conversion charges : Where assessee owner/inherent-lessee of a leased land entered into an agreement to sell said land and there was a clear condition in agreement to sale that said land should be converted by assessee from leasehold into freehold to perfect ownership title of buyer in land and agreed sale consideration was inclusive of amount of freehold conversion charges, such conversion charges towards improvement of title to land or for removing impediment in transfer/sale of land which were borne by assessee seller was to be deducted while computing LTCG chargeable to tax on sale of land by assessee - Sanjay Majumdar v. Principal Commissioner of Income-tax, Allahabad - [2021] 131 taxmann.com 265 (Allahabad - Trib.)

SECTION 194J OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - FEES FOR PROFESSIONAL OR TECHNICAL SERVICES

Where assessee was held to be an 'assessee in default' as it had entered into an agreement with Karnataka Industrial Area Development Board (KIADB) for acquiring land for implementation of Bangalore Metro Rail Project and made payment, but did not deduct tax at source, in view of fact that Liability to deduct tax would arise only if payment was made towards service charges by assessee which attracts tax liability, matter was to be remanded back to Tribunal to determine said aspect - Bangalore Metro Rail Corporation Ltd. v. Deputy Commissioner of Income-tax, Circle-16(1) - [2021] 131 taxmann.com 322 (Karnataka)

CORPORATE LAW UPDATES



SECTION 7 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS

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Initiation by financial creditor: Where settlement had been arrived between corporate debtor and financial creditor and, NCLAT set aside order of admission of CIRP, however, there was breach of payment terms by corporate debtor under settlement agreement, thus, instant petition filed by financial creditor to set in motion CIRP against corporate debtor was to be admitted - Satish Sadashiv Rane v. Shah Group Builders Ltd. - [2021] 131 taxmann.com 270 (NCLT - Mum.)

CIRCULAR NO. SEBI/HO/MIRSD/ DOP/P/CIR/2021/653, 28-10-2021

Stock Brokers should maintain current accounts in multiple banks for holding of client funds: SEBI clarifies

Editorial Note: In order to facilitate seamless settlement of funds and for the convenience of investors, the SEBI has clarified that Stock Brokers should maintain current accounts in appropriate number of banks (subject to the maximum limit prescribed by Stock Exchanges / SEBI from time to time) for holding the client funds (i.e., Client Account), for settlement purposes and any other accounts mandated by Stock Exchanges.

BYE-LAW 15.32 OF THE MULTI-COMMODITY EXCHANGE OF INDIA LTD. - ARBITRAL TRIBUNAL, COMPOSITION OF

By virtue of Bye-laws of Multi-Commodity Exchange of India Ltd., Exchange is always entitled to legitimately constitute an Arbitral Tribunal afresh if an attempt fails or proceedings could not be concluded within prescribed time - JMC Metals (P.) Ltd. v. Kunvarji Commodities Brokers (P.) Ltd. - [2021] 131 taxmann.com 248 (Bombay)

NOTIFICATION NO. SEBI/LAD-NRO/GN/2021/53, DATED 26-10-2021

SEBI authorizes practicing Cost Accountants to issue share reconciliation capital audit report

Editorial Note: The market regulator, SEBI has amended the Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2018. The amendment has made in regulation 76 to authorize practicing cost accountants for issuing the share reconciliation audit report. Earlier, practicing Chartered Accountants and Company Secretaries were allowed to issue such report.

NOTIFICATION NO. SEBI/LAD-NRO/GN/2021/54, DATED 26-10-2021

SEBI amends eligibility criteria for registration of FPIs; permits AIFs set up in IFSCs as eligible FPIs

Editorial Note: The SEBI has amended the norms for eligibility criteria of foreign portfolio investor.

The amendment has been made in regulation 4 which provides eligible criteria for registration of FPIs. Now AIFs set up in the IFSCs shall be permitted as eligible applicant for registration of FPIs in India.

NOTIFICATION NO. SEBI/LAD-NRO/GN/2021/52, DATED 26-10-2021

SEBI amends ICDR norms; tweaks eligibility requirements for issuers to make IPOs

Editorial Note: The SEBI has amended the SEBI (ICDR) Regulations, 2018. The amendment tweaks eligibility norms for issuer for making an IPO. As per revised regulation 6(3), an issuer who has issued SR equity to its promoter will be allowed to do an IPO of ordinary shares subject to compliance of a condition that net worth of the SR shareholder, as determined by a Registered Valuer, shall not be more than Rs. 1000 crore.

CIRCULAR NO. SEBI/HO/IMD/IMD-II DF3/P/CIR/2021/652, DATED 27-10-2021

SEBI comes up with a 'Two-Tiered Structure' for benchmarking of Mutual Fund schemes

Editorial Note: In order to standardize and bring uniformity in the Benchmarks of Mutual Fund Schemes and taking into account the

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recommendations of the Mutual Fund Advisory Committee (MFAC), SEBI has decided that there would be a two-tiered structure for benchmarking of schemes for certain categories of schemes. The first tier benchmark shall be reflective of the category of scheme, and the second tier benchmark should be demonstrative of the investment style / strategy of Fund Manager within the category.

CIRCULAR NO. 16/2021, DATED 26-10-2021

Now LLPs can file 'Statement of Account and Solvency' in e-form 8 without additional fees up to Dec 30, 2021: MCA

Editorial Note: To promote ease of living and compliances for MSMEs doing business through LLP, the Ministry of Corporate Affairs (MCA) has decided to allow LLPs to file Form 8 for the Financial Year 2020-2021 without paying additional fees up to 30th December 2021.

SECTION 241 OF THE COMPANIES ACT, 2013 - OPPRESSION AND MISMANAGEMENT

Where despite a case of oppression and management was not successfully established by appellant-director/shareholder of company, NCLT, though dismissed said petition but in an act to provide succor to appellant, had ordered that

appellant be provided a flat and monthly salary of Rs. 75 thousand and certain other perquisites, which had been complied by respondents, said were reasonable relief and there were no grounds for interfering with impugned order of NCLT - Ms. Vidhya Achu Roy v. Suraj Mani Engineers (P.) Ltd. - [2021] 131 taxmann.com 179 (NCLAT- New Delhi)

CIRCULAR NO. SEBI/HO/CDMRD/DOC/P/CIR/2021/649, DATED 22-10-2021

Forming of exclusive panel for appellate arbitration is not required: SEBI

Editorial Note: The market regulator, SEBI has decided to amend SEBI Circulars pertaining to Investor Grievance Redressal System and Arbitration Mechanism whereby it has been clarified that forming of exclusive panel for appellate arbitration is not required and members can serve on both the panels. However, it is imperative for the exchanges to ensure that in the same matter, the members of arbitration panel are not considered for constituting the appellate arbitration panel if the matter goes to appeal."

CIRCULAR NO. SEBI/HO/CDMRD/DOC/P/CIR/2021/651, DATED 22-10-2021

SEBI amends norms for determination of legitimate claims

Editorial Note: With the objective to align with the practices in securities market, based on the internal deliberations/discussions, and the feedback received from the Stock Exchanges, the SEBI has decided to modify the clause pertaining to determination of legitimate claims. The Stock Exchanges need to ensure that once a member has been declared defaulter, the claim shall be placed before member core settlement committee for sanction and ratification.

SECTION 230 OF THE COMPANIES ACT, 2013 - COMPROMISE AND ARRANGEMENT

Where Future Group's transferor companies and Reliance Group's transferee companies filed first motion application under section 230 seeking an order to hold meetings of creditors and/or class of creditors, members and/or class of members to consider and approve scheme, application was to be allowed as it is well within rights of NCLT to allow applicants to hold meeting of various stakeholders, creditors etc., which is only initial stage in process of approval of composite scheme and objection of objector, i.e., Amazon as regards composite scheme of arrangement would be considered at relevant stage at time of filing of company petition for sanction/approval of scheme, by Reliance Group and, therefore application of Amazon raising such objections was to be dismissed - Future Consumer Ltd., In re - [2021] 131 taxmann.com 257 (NCLT - Mum.)

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**PR NO.30/2021, DATED
21-10-2021**

SEBI directs 'Investment Advisers' not to deal in unregulated activities

Editorial Note: The SEBI has directed registered investment advisors not to deal in unregulated activities i.e., advisory, distribution and execution/ implementation services in digital gold and other unregulated instruments. According to market regulator, SEBI, any dealing in unregulated activities by Investment Advisers may entail action as deemed appropriate under the SEBI Act, 1992 and regulations framed thereunder.

**CIRCULAR NO.
SEBI/HO/IMD/IMD-I/DF6/P/CIR/202
1/645, DATED 21-10-2021**

SEBI unveils modalities for filing of 'Placement Memorandum' through Merchant Banker

Editorial Note: The market regulator, SEBI has come out with modalities for filing of placement memorandum through Merchant Banker. The Merchant Banker shall independently exercise due diligence of all the disclosures in the placement memorandum, satisfy itself with respect to veracity and adequacy of disclosures and provide a due diligence certificate. However, this circular shall come into effect from November 11, 2021

**SECTION 164 OF THE
COMPANIES ACT, 2013 -
DIRECTORS -
DISQUALIFICATIONS FOR
APPOINTMENT OF**

Section 164(2) disqualifying directors of companies for a period of 5 years on failure to submit annual returns/financial statements for 3 consecutive years is not ultra vires constitution - Zacharia Maramkandathil Mohan v. Union of India - [2021] 131 taxmann.com 87 (Kerala)

Section 164(2) which had come into force from 1-1-2014 would have prospective and not retrospective effect and defaults contemplated under section 164(2)(a) with regard to non-filing of financial statements or annual returns for any continuous period of three financial years to be counted from financial year 2014-15 only - Zacharia Maramkandathil Mohan v. Union of India - [2021] 131 taxmann.com 87 (Kerala)

Disqualification under section 164(2) is of temporary nature, thus, rule 11 of Companies (Appointment and Qualifications of Directors) Rules, 2014 does not empower any authority to cancel or deactivate DIN upon disqualification under section 164(2) - Zacharia Maramkandathil Mohan v. Union of India - [2021] 131 taxmann.com 87 (Kerala)

**CIRCULAR NO.
SEBI/HO/MIRSD/MIRSD_RTAMB/P
/CIR/2021/644, DATED 18-10-2021**

RTA to comply with norms pertaining to 'Transmission of Securities' as provided in Cos. Act: SEBI

Editorial Note: The SEBI has observed that in some cases due to dispute from the legal representative of one of the deceased holders, the RTAs have not effected transmission to the surviving joint holder(s). Therefore, SEBI to protect the interests of investors in securities market advised RTAs to comply with the provisions of the Companies Act 2013 and transmit securities in favour of surviving Joint holder(s), in the event of demise of one or more joint holder(s), unless contrary prescribed in AOA.

**CIRCULAR NO.
SEBI/HO/OIAE/IGRD/CIR/P/2021/6
42, DATED 14-10-2021**

SEBI introduces online system to obtain SCORES credentials of Cos intending to list their securities on exchanges

Editorial Note: The SEBI has decided to introduce an online mechanism for obtaining SCORES credentials for all "companies intending to list their securities on SEBI recognized stock exchanges". The online form can be accessed on the SCORES website www.scores.gov.in. This has been done as part of SEBI's green initiative and to streamline the redressal of investor grievances against companies before listing.

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**SEBI/HO/DDHS/CIR/2021/0000000
638, DATED 14-10-2021**

SEBI issues revised formats for limited review/ audit report for issuers of non-convertible Securities

Editorial Note: SEBI has issued the revised formats of limited review/ audit reports (to be submitted to Stock Exchanges and placed on listed entity's website). Regulation 52 of the SEBI (LODR), Regulations 2015 requires entities that have listed nonconvertible securities to disclose financial results on a quarterly basis, including assets & liabilities and cash flows as well as requiring certain changes in the line items in the financial results.

**SECTION 15T OF THE
SECURITIES AND EXCHANGE
BOARD OF INDIA ACT, 1992 -
SECURITIES APPELLATE**

A shareholder of MCX cannot be considered to be 'person aggrieved' within meaning of section 15T by a decision of SEBI in favour of MCX - IGL Finance Ltd. v. Securities & Exchange Board of India, Mumbai - [2021] 131 taxmann.com 65 (SAT - Mumbai)

**PRESS RELEASE NO. 29/2021,
DATED 08-10-2021**

SEBI restricts NCDEX from launching new mustard seed contracts till further orders

Editorial Note: The SEBI has issued Directions to NCDEX debaring it from launching new mustard seeds

contracts till further orders with a view to curb rising prices of mustard oil. In respect of running contracts, no new position will be allowed to be taken. Only squaring up of position will be allowed, SEBI said. The directions will be implemented with immediate effect.

**SECTION 100 OF THE
COMPANIES ACT, 2013 -
EXTRAORDINARY GENERAL
MEETING - CALLING OF**

Where respondent, foreign portfolio investor and shareholder of appellant (Zee), had filed petition before NCLT for holding of Extraordinary general meeting of appellant as soon as possible and NCLT by impugned order granted only two days to appellant to file its reply to company petition, it was held that NCLT had committed an error in not granting reasonable and sufficient time for filing a reply, which was a complete violation of rule 37 of NCLT Rules, 2016 and Principles of Natural Justice and, therefore, reasonable and sufficient opportunity should be given to appellant for filing a reply - Zee Entertainment Enterprises Ltd. v. Invesco Developing Markets Fund - [2021] 131 taxmann.com 97 (NCLAT- New Delhi)

CIRCULAR NO.

**SEBI/HO/IMD/IMD-II
DOF3/P/CIR/2021/641, DATED
06-10-2021**

SEBI requires MFs to undertake minimum 25% in Corporate Bonds & 10% in Commercial Papers of total trades

Editorial Note : The SEBI has revised requirement for mutual funds to undertake on monthly basis from Minimum 10 % to 25% of total secondary market trades by value in Corporate Bonds on the Request for Quote (RFQ) platform of stock exchanges. In addition, the Mutual Funds shall now undertake minimum 10% of their total secondary market trades by value in Commercial Papers by RFQ platform of stock exchanges. This circular shall come into force with effect from December 1, 2021.

**NOTIFICATION NO. S.O. 4075 (E),
DATED 29-09-2021**

NFRA constitutes search-cum-selection committee

Editorial Note: In pursuance of rule 4 of the National Financial Reporting Authority (Manner of Appointment and other Terms and Conditions of Service of Chairperson and Members) Rules, 2018, the Govt. has constituted a search-cum-selection committee. The committee shall make its recommendations in regard to appointment of chairperson or the members, as the case may be, to the Central Government.

**SECTION 441 OF THE
COMPANIES ACT, 2013 - SPECIAL
COURT**

Compounding of certain offence: Where Registrar of Companies, had filed a complaint before competent Court against petitioner alleging violation of section 165 on ground that he was a director of more

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than 20 companies and said complaint was filed without considering fact that petitioner had already filed an application for compounding of alleged offence, complaint filed by Registrar was not sustainable and was to be quashed - Praveen Agarwal v. Deputy Registrar of Companies, Tamilnadu - [2021] 130 taxmann.com 462 (Madras)

CIRCULAR NO. SEBI/HO/DDHS/DDHS_DIV3/P/CIR/2021/639&640, DATED 05-10-2021

SEBI amends mechanism of providing exit option to dissenting unit holders pursuant to REITs and InvIT Regulations

Editorial Note: The SEBI has amended the manner and mechanism of providing exit option to dissenting unit holders pursuant to Regulation 22(6A) and Regulation 22(8) of SEBI (Real Estate Investment Trusts) Regulations, 2014 and Regulation 22(5C) and Regulation 22(7) of SEBI (Infrastructure Investment Trusts) Regulations, 2014. The new mechanism has provided the new timelines for disclosures.

CIRCULAR NO. SEBI/HO/CDMRD / DOC/P/CIR/2021/636, DATED 04-10-2021

Stock Exchanges and Clearing Corporation are required to disclose data on complaints on their website: SEBI

Editorial Note: In order to bring about transparency in the Investor Grievance Redressal Mechanism, the SEBI has decided that all the Stock Exchanges and the Clearing Corporations shall disclose on their websites, the data on complaints received against them and redressal thereof, latest by 7th of succeeding month.

CIRCULAR NO. SEBI/HO/DDHS/CIR/2021/0000000 637, DATED 05-10-2021

SEBI revises formats for filing 'Financial Information'

Editorial Note: The SEBI has decided to revise the formats for reporting of financial information and limited review report. The new format shall contain the items mentioned in the Statement of Profit and Loss (excluding notes and detailed sub classification) as prescribed in Schedule III of the Companies Act, 2013 and the extent and nature of security created and maintained in case of secured non-convertible debt securities, details of which are required as per regulation 54(3) of Listing Regulations.

CIRCULAR NO. SEBI/HO/IMD/IMD-I DOF5/P/CIR/2021/635, DATED 04-10-2021

SEBI discontinues usage of pool accounts for mutual fund transactions

Editorial Note: With an aim to protect mutual fund investors against misuse of their investments, the SEBI has decided to discontinue the usage of pool accounts by all platforms in transactions of mutual fund schemes. In addition, stock brokers/clearing members facilitating mutual fund transactions shall not accept mandates for SIPs or Lump sum transactions in their name.

CIRCULAR NO. SEBI/HO/IMD/IMD-I DOF5/P/CIR/2021/634, DATED 04-10-2021

Financial & non-financial transactions to be executed only if there is a service agreement between AMC and service provider: SEBI

Editorial Note: Based on the discussions with stakeholders and recommendations of the Mutual Fund Advisory Committee, the SEBI has decided with respect to transactions in the units of Mutual Funds undertaken through service providers/platforms other than stock exchanges. As a result, AMCs need to ensure that the transactions (financial/ non-financial) can be executed only if there is a service agreement between the AMC and the service provider / platform.

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CIRCULAR NO.

**SEBI/HO/CFD/DIL2/CIR/P/2021/63
3, DATED 01-10-2021**

SEBI further relaxes procedural matters related to Issues and Listing

Editorial Note: Based on the representations received from the market participants, the SEBI has decided to extend the validity of relaxations for Rights Issues till 31-03-2022 with respect to Refund for un-allotted partial allotted application. In addition to foregoing, the issuer along with Lead Manager(s), Registrar, and other recognized intermediaries shall also ensure that issuer company shall conduct a Vulnerability Test for optional mechanism.

NFRA issues consultation Paper on Statutory Audit and Auditing Standards for MSMCs

Editorial Note: The NFRA has prepared a Consultation Paper on Statutory Audit and Auditing Standards for MSMCs explaining the issues involved and providing the data and information required for responding to the questions raised in an informed manner, with the objective to seek the comments/suggestions of the wider stakeholder group and the public at large on questions raised. The last date for receipt of comments is 10 November, 2021.

SECTION 232 OF THE COMPANIES ACT, 2013 - AMALGAMATION

Where applicant filed PIL and writ petition to recall order for amalgamation of respondent company on ground of fraud and collusions in view of fact that on same core issue applicant had also filed complaints before various forums, wherein, said complaints were dismissed as applicant was not an aggrieved person and that applicant had unconditionally withdrawn PIL, it could be said that applicant was indulged in forum shopping and thus, instant writ petition could not be entertained and same was to be dismissed - India Awake For Transparency v. Hasham Investment & Trading Co. (P.) Ltd. - [2021] 130 taxmann.com 330 (Karnataka)

COMPLIANCE CALENDAR



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Tax Compliance Calendar for November 2021

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To	
7th Nov	October 2021	TDC / TCS Deposit	Non-Government Deductors	
		Equalization Levy Deposit	All Deductors	
10th Nov		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 Nov		GSTR-1 (Outward Supply Return)	Taxable persons having turnover > Rs. 5 Crore	
13th Nov		GSTR-6 [Return by input service]	Person registered as ISD	
		Invoice Furnishing Facility - IFF (Details of outward supplies of goods or services)	Taxable persons having turnover < Rs. 5 Crore	
15th Nov		Deposit of PF & ESI contribution	All Deductors	
		July-September 2021	TDS certificate in Form 16A (Non-salary)	
20th Nov		October 2021	a) GSTR-5 (Return by Non-resident)	a) Non-resident taxable person
	b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR)]		b) OIDAR services provider	
	GSTR-3B (Summary return)		All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2020-21	
25th Nov		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	

