

DEVMANTRA TIMES

NOVEMBER EDITION

ISSUE NO : 21, DATE : 1st NOVEMBER 2022

Editorial

Dear Readers,

Happy to share the **Twenty first** edition of **Devmantra Times** for the month of **November 2022**. Wish our readers **Happy Diwali!**

It was a great Initiative from the **Devmantra Foundation** to celebrate **Diwali** along with **Children @Sumangali Seva Ashrama**



We all from the Devmantra Foundation team gathered to bring sparkle of joy to more than 70 inmates at the Sumangali Seva Ashrama on Friday, 21st October 2022. Mr. CS Sajeevani, Official Liquidator, Honorable High Court of Karnataka graced the Occasion as The Chief Guest during the event along with Rtn. Kala as the Judge for the Dance Competition along with Sushelamma founder of the trust & her team. Sweets, Crackers, and Mehndi kits were distributed at the Orphanage. Children were overjoyed with the candy & popcorn stalls.

Various other entertaining activities were conducted. These activities brought a smile to the faces of the kids at the orphanage. We spent quality time with abandoned elders, providing them with the much-needed feeling of togetherness and bonding of a family, which makes Diwali special to all. A cultural event of dance was organized, which encouraged the girls to express their creativity. To add to the cheer and joy, Diwali gifts were distributed to the children.

We are so blessed to have such amazingly wonderful organizations like Sumangali Seva Ashrama, doing such wonderful work for the under privileged, hats off to them and our best wishes.

We feel People who are actually part of these NGOs, Smt. Sushelamma & her team are just like those very angels sent from God who work as the caretaker of all those who are so very needy.

At the end of a lovely evening, the we left with hearts overflowing with love and delight.

Diwali Celebration at office

It was great celebrating Diwali at the office along with our colleagues and their Family.



We call it **KYC** (Know Your Colleague) No work talk and all fun , a great way to start a New Samvat!

Economic Updates

- India's factory growth picks up speed in Oct, hiring at 33-month high.
- Core sector growth back on track, up to 7.9% in September after 2-month drop
- Centre on firm fiscal footing, H1 deficit at 37.3% of FY23 BE

Startup updates

- Nykaa profit jumps 344% YoY, revenue up 39%
- Ola Electric sales reach 20,000 units in October
- PayU reports over 50% jump in revenue, clocks net profit of Rs 126 crore

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

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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

GSTN enables filing of Transitional Forms as per direction of Supreme Court

Editorial Note : The GSTN has enabled the transition forms for filing or revising the previously filed TRAN-1 / 2 till 30th November, 2022 as per the directions of the Supreme Court. In this regard, GSTN has issued

detailed tutorial guide for the taxpayers.

NOTIFICATION NO. 31/2022 -CENTRAL EXCISE, DATED 30-09-2022

Government defers the increase in excise duty on Petrol & High Speed Diesel intended for retail sale

Editorial Note : The Government has issued a notification to defer the hike in the excise duty on petrol and high speed diesel intended for retail sale till November 1, 2022 and April 1, 2023 respectively. Earlier, the rate of excise duty on such items was to be increased with effect from October 1, 2022.

PRESS RELEASE, DATED 04-10-2022

Clarification regarding time limit for certain compliances pursuant to issuance of Notification No. 18/2022-CT



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Editorial Note : The time limit for several compliances such as claiming ITC, rectification of GST returns, issuance of credit notes etc. have been extended and fixed as 30th November of the next financial year, or furnishing of annual return, whichever is earlier. In this regard, it is clarified that the extended time lines for compliances are applicable for FY 2021-22 onwards.

INSTRUCTION NO. 110267/75/2022-CX, DATED 06-10-2022

Assessee can avail waiver of interest under SVLDRS, 2019 if tax dues already paid in full

Editorial Note : The CBIC has issued instruction to clarify that the assessee is eligible to avail benefit of the waiver of interest under SVLDRS, 2019 if tax dues have been already paid in full before filing the application.

New functionalities made available for taxpayers on GST Portal in September, 2022: GSTN Update



Editorial Note : GSTN has issued a document to update taxpayers about the new functionalities made available on the GST portal in various modules such as functionality to add new fields while submitting response to a notice, in Form GST REG 04, addition of restricted items in the Composition restriction table etc.

INSTRUCTION NO. 26/2022-CUSTOMS, DATED 06-10-2022

Health Certificate to be accompanied with import of certain food consignments

Editorial Note : The CBIC has earlier issued instruction to inform that health certificate shall be accompanied with import of certain food consignments. Now, it is clarified that integrated or single certificate incorporating food safety related requirements will also be accepted.

PUBLIC NOTICE NO. 28/2015-2020, DATED 06-10-2022

Last date for applications for TRQs under tariff head 7108 for 3rd Quarter of FY 22-23 extended till 10.10.2022

Editorial Note : The DGFT has issued public notice to inform that the last date for application for TRQs under tariff head 7108 for the 3rd Quarter of FY 2022-23 has been extended from 31.08.2022 to 10.10.2022.

IMPLEMENTATION OF MANDATORY MENTIONING OF HSN CODES IN GSTR-1(26-10-2022)

As per Notification No. 78/2020 – Central Tax dated 15th October, 2020, it is mandatory for the taxpayers to report minimum 4 digit or 6 digit of HSN Code in table-12 of GSTR-I on the basis of their Aggregate Annual Turnover (AATO) in the preceding Financial Year. To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal.

Editorial Note :

Part I & Part II of Phase 1 has already been implemented from 01st April 2022 & 01st August 2022 respectively and is currently live on GST Portal. From 01st November, 2022, Phase-2 would be implemented on GST Portal and the taxpayers with up to Rs 5 crore turnover would be required to report 4-digit HSN codes in their GSTR-1.

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RECURRING SCNS TO BE ISSUED BY JURISDICTIONAL TAX AUTHORITIES GST UPDATE (20-10-2022)

The GST Council has clarified that recurring SCNs is to be issued by jurisdictional tax authorities even if original SCN is not issued by them. The jurisdictional tax authorities will be in a better position to access records and returns of taxpayers and to check whether the grounds of SCNs still exist or not. In this regard an Office Memorandum has been issued by the GST Council.

RECENT JUDICIAL RULINGS ON GST

RULE 3 OF THE CENVAT CREDIT RULES, 2004 - CENVAT CREDIT

Credit of Education Cess and Secondary and Higher Education Cess is not admissible in terms of formula prescribed under Rule 3(7)(a) of CENVAT Credit Rules, 2004 during period from April, 2007 to January, 2009 when EOU paid

has duty on such goods in terms of Sl. No. 2 of Notification No. 23/2003-C.E., dated 31-3-2003 - Venus Wire Industries (P.) Ltd. v. Commissioner of Central Excise - [2022] 143 taxmann.com 440 (Mumbai - CESTAT)

SECTION 11AA OF THE CENTRAL EXCISE ACT, 1944 - INTEREST ON DELAYED PAYMENT OF DUTY

Interest is liable to be paid when assessee had availed Cenvat credit in excess though same was reversed later on after being pointed out by revenue - Venus Wire Industries (P.) Ltd. v. Commissioner of Central Excise - [2022] 143 taxmann.com 440 (Mumbai - CESTAT)



SECTION 11AA OF THE CENTRAL EXCISE ACT, 1944 - INTEREST ON DELAYED PAYMENT OF DUTY

Interest is liable to be paid when assessee had availed Cenvat credit in excess though same was

reversed later on after being pointed out by revenue - Venus Wire Industries (P.) Ltd. v. Commissioner of Central Excise - [2022] 143 taxmann.com 440 (Mumbai - CESTAT)

SECTION 11AC OF THE CENTRAL EXCISE ACT, 1944 - PENALTY FOR SHORT-LEVY OR NON-LEVY OF DUTY IN CERTAIN CASES

Penalty was not imposable for excess availment of Cenvat credit when issue involved was related to interpretation of Statute - Venus Wire Industries (P.) Ltd. v. Commissioner of Central Excise - [2022] 143 taxmann.com 440 (Mumbai - CESTAT)

SECTION 30 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - REVOCATION OF CANCELLATION OF

High Court directs restoration of cancelled registration on payment of tax and other amounts and filing of returns as Department has not appealed against similar order passed earlier - M.Mallika Mahal v. Commissioner of Central GST and Central Excise - [2022] 144 taxmann.com 8 (Madras)

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

Refund of accumulated credit was not admissible when value of zero rated supply was inadvertently mentioned to be 'zero' in GSTR-3B return and no documentary evidence was produced by petitioner to substantiate his claim of refund - CTC (India) (P.) Ltd. v. Commissioner (Appeals), CGST & Central Excise - [2022] 144 taxmann.com 10 (Jharkhand)

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

Despite availability of alternative remedy against adjudication order, Writ Petition could be entertained when adjudication order had been passed ex parte in violation of principles of natural justice and without assigning any reason - Om Shanti Construction v. State of Bihar - [2022] 144 taxmann.com 7 (Patna)



INCOME TAX

REGULATORY UPDATES NOTIFICATION NO. 112/2022, DATED 07-10-2022



CBDT amends definition of 'non-reporting financial institution' for purpose of reporting under FATCA
Editorial Note : The Central Board of Direct Taxes (CBDT) has amended the definition of 'non-reporting financial institution' as defined under Rule 114F. Section 285BA talks about reporting requirements by a "non-reporting financial institution" that is responsible for registering, maintaining books of account or other documents containing a record of any reportable account.

NOTIFICATION NO. S.O. 4873(E), DATED 13-10-2022

CBDT specifies jurisdiction of CIT(A) for filing faceless appeals for cases related to International Tax & TP

Editorial Note : The Central Board of Direct Taxes (CBDT) has specified the jurisdiction of the Commission of Income-tax

(appeals) for filing of appeal the Faceless Appeal Scheme, 2021 for cases related to International Tax & Transfer Pricing.

CIRCULAR NO. 21/2022, DATED 27-10-2022

CBDT extends due date of filing of TDS return for 2nd quarter of FY 2022-23 to November 30, 2022

Editorial Note : On account of the revision of the format of Form 26Q and the consequent updating required for its filing, the Central Board of Direct Taxes (CBDT) has extended the due date of filing of TDS statement for the second quarter of the financial year 2022-23 from October 31, 2022, to November 30, 2022



CIRCULAR NO. 22/2022, DATED 01-11-2022

CBDT condones delay in filing of Form 10A which was required to be e-Filed by March 31, 2022

Editorial Note : The CBDT has condoned the delay up to

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25-11-2022 in the filing of Form no. 10A which was required to be filed electronically on or before 31-03-2022. The Form 10A is required to be filed for re-registration of existing trust registered u/s 12A/12AA, for re-approval of existing trust or institution approved u/s 10(23C)/80G and for filing of intimation by a research association or institution u/s 35.

NOTIFICATION F. NO.

370133/16/2022-TPL, DATED

01-11-2022

CBDT proposes common ITR by merging all existing forms except ITR-7; releases draft 'Common ITR'

Editorial Note : The CBDT has proposed to introduce a common ITR by merging all the existing returns of income except ITR-7. This will give an option to taxpayers to file the return either in the existing form or the proposed common ITR, at their convenience.

RECENT JUDICIAL RULINGS ON INCOME TAX SECTION 2(41) OF THE INCOME-TAX ACT, 1961 - RELATIVE

Nephew : Term 'relative' defined under section 2(g) of Senior Citizen's Act could not be read at

par with section 2(41) of IT Act for purpose of allowing exemption on gifts received by assessee - Miss Indira Uppal v. Union of India - [2022] 143 taxmann.com 239 (Delhi).

SECTION 32 OF THE INCOME TAX ACT, 1961 - DEPRECIATION - ALLOWANCE/RATE OF

Even if Schedule DEP in ITR is not filled up, depreciation to be allowed by CPC as per figure indicated in Part A- P&L in ITR & clause 18 of TAR - Indauto Filters v. Assistant Director of Income-tax, CPC - [2022] 144 taxmann.com 3 (Bangalore - Trib.)

SECTION 35 OF THE INCOME-TAX ACT, 1961 - SCIENTIFIC RESEARCH EXPENDITURE

Reassessment : Where Assessing Officer issued a reopening notice for examining expenses incurred by assessee on scientific research and development and expenses related to purchase of unprocessed seeds, since these issues were already considered by Assessing Officer during scrutiny assessment and claim of assessee was allowed after detailed investigation by raising queries and considering reply and supporting materials submitted by assessee, impugned reopening was unjustified - Florence Investech Ltd. v. Deputy Commissioner of Income-tax - [2022] 143 taxmann.com 217 (Calcutta)

SECTION 36(1)(ii) OF THE INCOME-TAX ACT, 1961 - BONUS OR COMMISSION

Bonus/commission paid to employee who is not a partner/shareholder can't be disallowed u/s 36(1)(ii) - Karam Singh Malik v. Income Tax Officer, Ward-44(4) - [2022] 144 taxmann.com 5 (Delhi - Trib.)



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

Mere disclosure of club fees in clause 21(a) of Tax Audit Report does not per se render them liable to be disallowed u/s 37(1) - Legacy Global Projects (P.) Ltd. v. Assistant Director of Income-tax - [2022] 144 taxmann.com 4 (Bangalore - Trib.)

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

Comparables, functional similarity - Software consultancy/Development services : Where selected company

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was engaged in development of products, in absence of segmental information, it could not be compared with assessee-company rendering software development services - Income-tax Officer v. Nethawk Networks India (P.) Ltd. - [2022] 143 taxmann.com 213 (Pune - Trib.)

SECTION 94B OF THE INCOME TAX ACT, 1961 - INTEREST DEDUCTION IN CERTAIN CASES - LIMITATION ON

Under mercantile system, premium payable on redemption of preference shares does not accrue to shareholder every year like interest - Enzen Global Solutions (P.) Ltd. v. Income Tax Officer, Ward-2(1)(4) - [2022] 144 taxmann.com 2 (Bangalore - Trib.)

SECTION 260A OF THE INCOME TAX ACT, 1961 - HIGH COURT - APPEAL TO

HC can dismiss a WP on the grounds of availability of alternative remedy. even after its admission - MangaliMahinag v. Sushila Sahu - [2022] 144 taxmann.com 6 (Chhattisgarh)

SECTION 271(1)(b) OF THE INCOME-TAX ACT, 1961 - PENALTY - FOR NON-COMPLIANCE OF NOTICES

Illustrations : Where during reassessment proceedings, penalty was levied under section 271(1)(b) for non-compliance of notice under section 142(1), since quantum reassessment proceedings itself were held to be without jurisdiction and were quashed, consequent penalty proceedings initiated for non-compliance of notice were also to be quashed - Smt. Anita Awasthi v. Income-tax Officer - [2022] 143 taxmann.com 238 (Varanasi-Trib)

SECTION 276CC OF THE INCOME-TAX ACT, 1961 - OFFENCE AND PROSECUTION - FAILURE TO FURNISH RETURN OF INCOME

Condition precedent : Where admittedly department had not obtained prior sanction from Pr. Commissioner under section 279 to proceed against assessee-director for filing belated return by company, department could not proceed against assessee so as to prosecute him for offence under section 276CC - Vipul Aggarwal v. Income-tax Officer - [2022] 143 taxmann.com 237 (Delhi)

CORPORATE LAW UPDATES CIRCULAR NO. SEBI/HO/DDHS/D-DHS_DIV1/P/CIR/2022/147, DATED 31-10-2022

SEBI caps number of ISINs maturing in any financial year for debt securities issued on private placement basis to 14

Editorial Note : SEBI has decided to further cap the number of ISINs maturing in a financial year for debt securities issued on private placement basis.

A maximum number of 14 ISINs maturing in any financial year shall be allowed for an issuer of debt securities. In addition, a further 6 ISINs shall also be made for the issuance of the capital gains tax. Also, SEBI has provided for bifurcation of ISINs. The circular shall be applicable to ISINs utilised to issue debt securities from 01.04.2023.



CIRCULAR NO. SEBI/HO/D-DHS/DDHS-RACPOD2/P-CIR/2022/146, DATED 31-10-2022
SEBI defines new symbols/definitions for new ratings/reviews for CRAs for Issuer Rating /Corporate Credit Rating

Editorial Note : After discussions with stakeholders, the SEBI has introduced new symbols and definitions for the new ratings/ reviews by the CRAs for Issuer Rating / Corporate Credit Rating. These Ratings indicate the degree of safety of the issuer or the rated entity with regard to the timely servicing of all its debt obligations. The circular shall be applicable with effect from January 1, 2023.

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Further, Monitoring of this circular shall be done in terms of the half-yearly internal audit for CRAs.

CIRCULAR NO. SEBI/HO/IM-D/DOF2/P/CIR/2022/145, DATED 28-10-2022

ETFs units, direct transaction with AMC's shall be facilitated only for transactions above Rs 25 Cr from May 01, 2023: SEBI

Editorial Note : Earlier, SEBI in May 23, 2022 introduced a circular on "Development of passive funds". Clause 2(IV)(A) of the aforesaid circular prescribed that in respect of units of ETFs, direct transaction with AMC's shall be facilitated for investors only for transactions above a specified threshold of Rs 25 Cr. Further, the applicability of the circular shall be from November 01, 2022. Now, SEBI has extended the applicability of circular to May 01, 2023.

CIRCULAR NO. SEBI/HO/D-DHS/P/CIR/2022/00144, DATED 28-10-2022

Face value of debt security & non-convertible redeemable preference share reduced from Rs. 10 lakh to Rs. 1 lakh: SEBI

Editorial Note : Earlier, SEBI mandated that the face value of each debt security or non-convertible redeemable preference share issued on a private placement basis shall be Rs. 10 lakh. SEBI

SEBI received various representations from various market participants, requesting for a review of the said denominations. Accordingly, SEBI has reduced the face value of debt securities from Rs. 10 lakh to Rs. 1 lakh. The motive is to increase the investor's participation in the corporate bond market.

REGULATION 7 OF THE SEBI (STOCK BROKERS) REGULATIONS, 1992 - PROCEDURE WHERE REGISTRATION IS NOT GRANTED - CODE OF CONDUCT OF STOCK BROKERS

Where NSE by impugned order expelled appellant from its membership alleging change in promoters causing change in control of appellant without obtaining prior approval of Exchange, misuse clients funds, non-reconciliation of securities recorded in back office and tampering of records, in view of fact that appellant did not refute said charges, charges were established and, thus, no interference in impugned order was warranted - Stampede Capital Ltd. v. National Stock Exchange of India Ltd. - [2022] 143 taxmann.com 218 (SAT - Mumbai)



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Tax Compliance Calendar for November 2022

Compliance Due Date	Concerned (Reporting)Period	Compliance Details	ApplicableTo
7 th November	FY2021-22	Income - tax Return(where-Transfer Pricing is not applicable)	a)Corporates b)Non corporates(whose accounts are required to be audited) c)Partner of a firm whose accounts are required to be audited
10 th November	October 2022	TDC/TCS deposit	Non-GovernmentDeductors
		EqualizationLevydeposit	AllDeductors
		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
11 th November		GSTR-1(Outward supply return)	a)Taxable persons having annual turnover >Rs.5 crore in FY2021-22 b)Taxable persons having annual turnover ≤Rs.5 crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP)Scheme
13 th November		GSTR-6[Return by input service distributor	Person registered as ISD
		Invoice Furnishing Facility– IFF(Details of outward supplies of goods or services)	Taxable persons having annual turnover ≤Rs.5 crore in FY 2021-22 and opted for QRMP scheme
15 th November	October	Deposit of PF&ESI contribution	All Deductors
	July-Sep 2022	Issue of TDS Certificate (other than salary and payments to Indian tax residents)	All Deductors

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20 th November	October 2022	GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs.5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs.5 crore in FY2021-22 and not opted for QRMP scheme
		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
25 th November		Form GSTPMT-06 (payment of tax for QRMP filers)	Taxable persons having annual turnover ≤ Rs.5 crore in FY2021-22 and opted for QRMP scheme
29 th November	FY2021-22	Filing of Annual Return in form MGT-7 with ROC	All Companies
30 th November		Income - tax Return (where Transfer Pricing is applicable)	All taxpayers subject to Transfer Pricing regulations as per Income-tax Act, 1961
	July - Sep 2022	TDS Return in Form 26 Q	TDS Deductors on (non-salary) payments to tax residents in India

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