

# DEVMANTRA TIMES

## OCTOBER EDITION

ISSUE NO : 20, DATE : 1<sup>st</sup> OCTOBER 2022

### Editorial

Dear Readers,

We welcome you to the **Twentieth** edition of **Devmantra Times** for the month of **October 2022**. Wish our readers **Happy Durga puja & Dussehra**.

### Economic Growth

The Indian economy expanded 13.5% year-on-year in the second quarter of 2022, the most in a year but less than market forecasts of 15.2%. Gross value added increased faster for agriculture, forestry & fishing (4.5% vs 2.2% in Q2 2021); electricity, gas, water supply & other utility services (14.7% vs 13.8%); financial, real estate & professional services (9.2% vs 2.3%) and public administration, defence & other services (26.3% vs 6.2%). On the other hand, a slowdown was seen for mining & quarrying (6.5% vs 18%); manufacturing (4.8% vs 49%); construction (16.8% vs 71.3%) and trade, hotels, transport, communication & services related to broadcasting (25.7% vs 34.3%). On the expenditure side, household consumption accelerated (25.9% vs 14.4% in Q2 2021) and government expenditure rebounded (1.3% vs -4.8%). Meanwhile, gross fixed capital formation slowed (20.1% vs 62.5%) and net foreign demand contributed negatively to growth, as exports rose 14.7% while imports advanced at a faster 37.2%.



### Direct Tax Collections

Gross Direct Tax collections for the Financial Year 2022-23 register a growth of 30%: CBDT

### Right Balance between Growth & Inflation

Governor Shaktikanta Das announced a 50-bps hike in policy repo rate to 5.9% from 5.4% during the monetary policy committee's meeting on 30th September 2022 and maintained withdrawal of accommodation. With this, the rates have gone up 190-bps cumulatively since the start of the current calendar year. The rate hike was decided by a majority of 5 out of 6 members. The policy pegged India's GDP growth at 7% during the financial year 2023 and maintained inflation at 6.7% for the same period.

### 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.



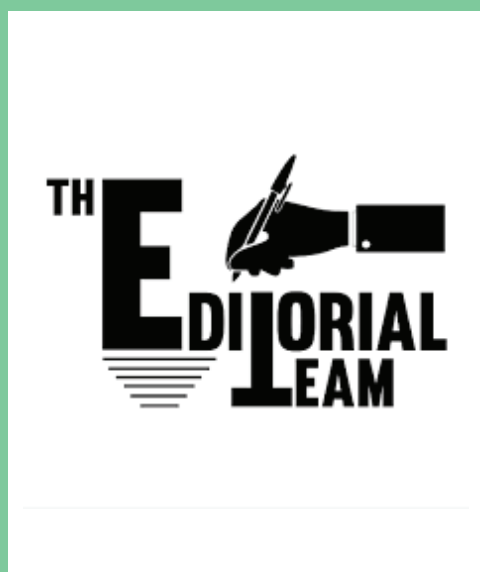
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Our core values remain the guiding principles for everything we do, and we would like to emphasize “Knowledge” as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority. 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

#### **PUBLIC NOTICE 27/2015-2020, DATED 29-09-2022**

Time limit for filing Annual Return under Para 5.15 of HBP 2015-2020 extended till Dec 31, 2022

Editorial Note : The time limit of furnishing the annual report by Authorisation holder to the concerned RA on fulfilment of the export obligation under Para 5.15 of Handbook of Procedures (HBP) 2015-2020 has been extended till December 31, 2022

#### **NOTIFICATION NO. 37/2015-2020, DATED 29-09-2022**

Notification issued for extending Foreign Trade Policy 2015-2020 till March 31, 2023

Editorial Note : The validity of the existing Foreign Trade Policy 2015-2020 which was earlier valid upto September 30, 2022 has now been extended till March 31, 2023.

#### **NOTIFICATION NO.20/2022 - CENTRAL TAX, DATED 28-09-2022**

CBIC rescinds Notification No. 20/2018-CT extending time limit for refund by UIN entities

Editorial Note : The CBIC has rescinded Notification No. 20/2018-CT which prescribed the extended time limit of eighteen months from the last date of the quarter in which such supply is received for refund by UIN entities. This notification had become irrelevant due to amendment introduced by Finance Act, 2022 by providing time limit of 2 years in CGST Act itself.

#### **NOTIFICATION NO.19/2022-CENTRAL TAX, DATED 28-09-2022**

CBIC issues Central Goods and Services Tax (Second Amendment) Rules, 2022

Editorial Note : The CBIC has issued Central Goods and Services Tax (Second Amendment) Rules, 2022 to give effect to the changes introduced by the Finance Act, 2022. These changes shall be effective from October 1st, 2022.



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### **NOTIFICATION NO. 18/2022-CENTRAL TAX, DATED 28-09-2022**

CBIC notifies all amendments of Finance Act, 2022 w.e.f October 1st, 2022

Editorial Note : The CBIC has notified all the provisions of Finance Act, 2022 related to GST which shall be effective from October 1st, 2022. The key changes include availment of ITC till 30th November of next financial year, credit notes can be issued till 30th November of next financial year, omission of sections 42, 43 and 43A etc.

New functionalities for taxpayers on GST Portal in August 2022: GSTN Update

Editorial Note : The GSTN has issued an update to inform about the new functionalities made available for taxpayers on GST Portal. These functionalities pertain to different modules such as Registration, Returns, Refund and other miscellaneous topics.



### **INSTRUCTION NO. 23/2022-CUSTOMS, DATED 09-09-2022**

Clarification regarding requirement of AGMARK certification for import of food products

Editorial Note : The CBIC has issued instruction to provide clarification that the requirement of AGMARK certification for import of food products shall be kept in abeyance till further orders

### **NOTIFICATION NO. 74/2022 - CUSTOMS, DATED 09-09-2022**

CBIC notifies Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022

Editorial Note : The CBIC has issued notification to notify Customs Import of Goods at Concessional Rate of Duty or for Specified End Use (ICGR) Rules, 2022. After considering various suggestions to further facilitate the trade and to expand the scope of application, the IGCR Rules, 2022 have been notified, while retaining the basic contours of IGCR, 2017.

### **CIRCULAR NO. 180/12/2022-GST, DATED 09-09-2022**

CBIC issues guidelines for filing/revising TRAN-1/TRAN-2

Editorial Note : The CBIC has issued guidelines for the applicants for filing TRAN-1/TRAN-2 or revising earlier filed TRAN-1/TRAN-2. In this regard, circular has been issued.

### **INSTRUCTION NO. 22/2022-CUSTOMS, DATED 06-09-2022**

GST payable on service charges for cash deposited by non-chest bank branches to Currency Chests; RBI clarifies

Editorial Note : The RBI has issued clarification to provide that the amount of service charges prescribed for cash deposited by non-chest bank branches to Currency Chests are exclusive of applicable taxes. Accordingly, the service charges mentioned in earlier circulars of RBI to be read as ?5 plus applicable taxes per packet and Rs.8 plus applicable taxes per packet, as the case may be.

### **TRADE NOTICE NO. 16/2022-23, DATED 06-09-2022**

RoSCTL scrips holders to upload e-BRC by September 30, 2022 for exports made upto 31-12-2020

Editorial Note : The DGFT has issued a trade notice to provide that the exporting firms who have been issued scrips under RoSCTL Scheme for exports/shipping bills upto December 31, 2020 are required to upload e-BRCs latest by September 30, 2022. Notably, the rebate under RoSCTL Scheme is subject to the receipt of exports proceeds within the time allowed under the FEMA regulations.

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### **INSTRUCTION NO. 22/2022- CUSTOMS, DATED 06-09-2022**

CBIC issued clarification on new procedure of disposal of Seized Gold: Instruction

Editorial Note : The CBIC has provided clarification on various issues relating to new procedure of disposal of Seized or Confiscated Gold. In this regard, new instruction has been issued.

GSTN incorporates changes in Form GSTR-3B for reporting of ITC availment, reversal and ineligible ITC

Editorial Note : The GSTN has issued update to inform taxpayers that the notified changes of Table 4

of GSTR-3B for reporting of ITC availment, reversal and ineligible ITC have been incorporated in GSTR-3B and are available on GST Portal since 01.09.2022.

### **NOTIFICATION NO. 73/2022 - CUSTOMS (N.T.), DATED 01-09-2022**

CBIC notified exchange rates effective from September 2nd, 2022

Editorial Note : The Central Board of Indirect Taxes and Customs has notified the rate of exchange of conversion of the foreign currencies into Indian currency or vice versa, with effect from 2nd September 2022, for import and export of goods.

### **INSTRUCTION NO. 04/2022-23 [GST – INVESTIGATION], DATED 01-09-2022**

CBIC issues guidelines for launching prosecution under CGST Act, 2017

Editorial Note : The CBIC has issued guidelines for launching prosecution under CGST Act, 2017 covering procedure for prosecution, monetary limits, procedure for withdrawal etc.

It is also provided that prosecution should not be filed merely because a demand has been confirmed in the adjudication proceedings.



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### NEW FUNCTIONALITIES FOR TAXPAYERS ON GST PORTAL

RelatingTo	Form/Functionality	DetailedInformation
Registration	Enabling CORE amendment link for taxpayers who fail to update the bank account	<ul style="list-style-type: none"> <li>• Earlier if the taxpayers failed to update their bank account details on the GST portal within 45 days post grant of registration, they were barred from filing an application for core amendment in their registration details. There could be scenarios, such as updating bank account details through a non-core amendment, which would fail if their name were to be updated in Central Board of Direct Tax (CBDT) database post grant of registration</li> <li>• Now the filing of core amendment applications, pending bank account updation has been enabled on GST portal</li> </ul>
Returns	Changes implemented in Form GSTR-3B (summary return)	<ul style="list-style-type: none"> <li>• As per section 9(5) of CGST Act, 2017, every electronic commerce operator (ECO) is required to pay tax on sale of certain services such as passenger transport, accommodation, house keeping &amp; restaurant services made through them</li> </ul>

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<b>Returns</b>	<b>Changes implemented in Form GSTR-3B (summary return)</b>	<ul style="list-style-type: none"><li>• Earlier every ECO and taxable person providing such services through ECO was required to report the detail of sales made in the common table of form GSTR-3B i.e. 3.1.a where detail of sale made other than export and nil rated supply was reported</li><li>• Now for reporting of such sales made, a new table 3.1.1 has been added in Form GSTR-3B from July 2022 onwards where in both ECO and taxable person providing such services through ECO are required to report the details</li></ul>
	<b>Late fee waiver for delayed filing of form GSTR-4 (annual return for composition taxpayers) for FY 2021-22 upto 28 July 2022</b>	<ul style="list-style-type: none"><li>• Form GSTR-4 is an annual return to be filed by taxpayers who have opted for composition scheme. For FY 2021-22, the due date of filing was 30 April 2022. In case of any delay, a late fee of Rs. 50 per day is chargeable subject to maximum of Rs. 2000. Earlier, the Central Board of Indirect Taxes &amp; Customs (CBIC) vide notification no. 12/2022 has extended the waiver of late fees upto 28 July 2022</li></ul>

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		<ul style="list-style-type: none"><li>• Where any taxpayer had filed form GSTR-4 earlier with payment of late fee, the same will be refunded by the system and credited to the electronic cash ledger (ECL) of the concerned taxpayer</li></ul>
	<p>Late fee waiver for delayed filing of form GSTR-4 (annual return for composition taxpayers) for FY 2021-22 upto 28 July 2022</p>	<ul style="list-style-type: none"><li>• Form GSTR-4 is an annual return to be filed by taxpayers who have opted for composition scheme. For FY 2021-22, the due date of filing was 30 April 2022. In case of any delay, a late fee of Rs. 50 per day is chargeable subject to maximum of Rs. 2000. Earlier, the Central Board of Indirect Taxes &amp; Customs (CBIC) vide notification no. 12/2022 has extended the waiver of late fees upto 28 July 2022</li></ul>

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Generation of Form GSTR-11[summary return for taxpayers registered as Unique Identity Number (UIN) holders] based on Form GSTR-1 (outward supply return) filed by the suppliers

- Form GSTR-11 is a quarterly return to be filed by taxpayers who have been issued UIN to get tax credit or refund under GST. UIN taxpayers file details of inward supplies in Form GSTR-11 and subsequently claim refund for the relevant quarter

- Earlier to facilitate and authenticate their refund claims, auto-population of Form GSTR-11 on basis of returns filed by the suppliers had been enabled on the GST portal. However, auto-populated form includes the details of inward supplies received on reverse charge (RCM) basis for which the refund is not eligible to UIN taxpayers. Now auto-population of such details has been disabled on GST portal

Harmonized System of Nomenclature (HSN) based validation implemented in Form GSTR-9 (annual return filed by regular taxpayers)

- CBIC made it mandatory to report HSN at minimum of 4-digit level for taxpayers having annual aggregate turnover (ATO) up to Rs. 5 crore and 6-digit level for taxpayers having ATO more than Rs. 5 crore



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		<ul style="list-style-type: none"><li>• Earlier no tool was available on GST portal relating to validation of HSN codes reported in Table-17 of Form GSTR-9 (annual return by regular tax payers). Now such HSN based validation has been implemented in Form GSTR-9</li></ul>
	<b>Change in HSN length validation in Form GSTR-1 (statement of outward supplies)</b>	<ul style="list-style-type: none"><li>• CBIC made it mandatory to report HSN at 6-digit level for taxpayers having AATO more than Rs. 5 crore</li><li>• Earlier the minimum length of HSN to be entered in table 12 of Form GSTR-1 for taxpayers having AATO more than Rs. 5 crore was 4-digits. Now such minimum length has been raised to 6 digits</li></ul>
	<b>Filing for refund in Form RFD-01 (application for refund) for exports without payment of tax</b>	<ul style="list-style-type: none"><li>• The taxpayers are required to upload the details of invoices in statement 3 while filing for refund in Form RFD-01 under category 'refund of unutilized Input Tax Credit (ITC) on account of exports (without payment of tax)'</li></ul>

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		<ul style="list-style-type: none"><li>• As per para 47 of circular no. 125/44/2019-GST, dated 18 November 2019, if the export value declared on the shipping bill is different than the value declared in the tax invoice, the lower of the 2 values would be considered for processing of refund on account of export of goods made without payment of tax. Therefore, a column 'FOB value' has been added in statement 3 format for the taxpayers to declare the value while filing application for refund</li></ul>
	<p>Update of statistics on GST Portal</p>	<ul style="list-style-type: none"><li>• A statistical report on 5 years of GST has been made available on the GST Portal under Downloads &gt; GST Statistics section</li></ul>

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### RECENT JUDICIAL RULINGS ON GST

#### SECTION 2(30) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - COMPOSITE SUPPLY

Accommodation services with provisions of food and other services provided by applicant to ASML are in conjunction with each other and therefore is a naturally bundled composite supply of services with 'Provision of Accommodation' as principle supply - Healersark Resources (P.) Ltd, In re - [2022] 142 taxmann.com 345 (AAAR - TAMILNADU)

#### SECTION 11 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY AND COLLECTION OF TAX - EXEMPTION - POWER TO GRANT

Renting of a residential dwelling by a proprietor of a registered proprietorship firm, who rents it in his/her own personal capacity for use as his/her own residence as well as not for use in course or furtherance of business of his/her proprietorship firm and such renting shall be on his/her own account and not proprietorship firm shall be exempt from GST - Seema Gupta v. Union of India - [2022] 142 taxmann.com 564 (Delhi)

Per day equivalent consideration for providing composite supply of Hospitality services by applicant to ASML are below one thousand stipulated for one day, therefore applicant is eligible of exemption Sl. No 14 of Notification No 12/2017-Central tax (Rate) dated 28-06-2017 - Healersark Resources (P.) Ltd, In re - [2022] 142 taxmann.com 345 (AAAR - TAMILNADU)

Project Development Services and Project Management Consultancy Services provided by sub-contractor to recipient having contract with State Government Nodal Agency for consultancy services qualify as pure services and same are exempted from payment of GST - KDS Services (P.) Ltd., In re - [2022] 142 taxmann.com 556 (AAR- UTTAR PRADESH)

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

Application filed in July, 2021 for restoration of GST registration certificate cancelled prior to 12-6-2020 could not be held time barred in view of order passed by Supreme Court excluding period from 15-3-2020 to 28-2-2022 in view of COVID Pandemic and

applicant having filed GST returns and also paid self assessed GST, registration was directed to be restored - Tahura Enterprise v. Union of India - [2022] 142 taxmann.com 557 (Gujarat)

#### SECTION 50 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - PAYMENT OF TAX - INTEREST ON DELAYED PAYMENT

Liability to pay interest for belated payment of tax under section 50 of Central Goods and Services Tax Act, 2017 is not only self-imposed but also automatic without any requirement for determination - Orissa Stevedores Ltd. v. Union of India - [2022] 142 taxmann.com 559 (Orissa)



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### SECTION 83 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - PROVISIONAL ATTACHMENT

Provisional attachment of bank accounts was to be lifted, provided cumulative amount appearing as credit balance in all bank accounts was remitted to revenue to protect its interests pending adjudication - Sun Flame Trading (P.) Ltd. v. Commissioner of Central Excise & CGST Commissionerate Delhi South - [2022] 142 taxmann.com 558 (Delhi)

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

Writ jurisdiction was not maintainable against assessment order in view of existence of statutory appellate remedy under CGST Act, 2017 - B.M. Construction Coochbehar v. Additional Commissioner of CGST and CE - [2022] 142 taxmann.com 555 (SC)



### INCOME TAX REGULATORY UPDATES PRESS RELEASE, DATED 29-09-2022

Premature closure clause won't trigger on account of death of holder of 'Senior Citizens Savings Scheme': FinMin

Editorial Note : The Ministry of Finance has clarified that the premature closure clause of the Senior Citizens Savings Scheme (SCSS) does not trigger on account of the demise of its account holder. The premature closure of the account is applicable only when the SCSS account holder requests for closure of his SCSS account before the maturity period.

### NOTIFICATION NO. 111/2022, DATED 28-09-2022

CBDT notifies Form 69 for making application for recomputation of income due to disallowance of surcharge/cess

Editorial Note : The FA 2022 inserted a new sub-section (18) to section 155 prescribing that the AO shall amend the assessment order of prior previous years on account of retrospective amendment under section 40(a)(ii) which disallows deduction of surcharge and cess. The CBDT has notified Form 69 which shall be filed by the assessee, on or before 31-03-2023, requesting AO for recomputation of total income without allowing the claim for deduction of surcharge or cess.



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### **ORDERF.NO. 370133/13/2022-TPL, DATED 28-09-2022**

CBDT specifies manner for constitution of collegium to decide deferment of appeals under Sec. 158AB

Editorial Note : The Finance Act, 2022 inserted a new Section 158AB to provide for deferment of appeal in the case of an assessee wherein the question of law is identical to a question of law that is pending before the jurisdictional High Court or the Supreme Court. To decide on such deferment, the CBDT has specified the manner for the constitution of the collegium. The Collegium shall comprise three members who are officers of the rank of Pr. CIT or CIT.

### **ORDER F NO. 370142/41/2022-T, DATED 26-09-2022**

Due date to file modified return extended to 31-03-23 if order of business organisation issued till 30-09-2022: CBDT

Editorial Note : As per section 170A, entities have to submit form ITR-A within 6 months from the end of the month in which the order of business reorganization was issued. ITR-A was notified on 19-09-22 and come into effect on 01-11-22, thus, to provide adequate time to furnish form, the CBDT has decided that where the order of

business reorganisation was issued between 01-04-2022 and 30-09-2022, the time available to furnish ITR-A shall stand extended to 31-03-2023.

### **NOTIFICATION NO. 110/2022/F.- NO. 370142/41/2022-TPL, DATED 19-09-2022**

CBDT notifies form ITR-A for filing of modified return by successor entity

Editorial Note : The Central Board of Direct Taxes (CBDT) has notified a new Rule 12AD and Form ITR-A to be filed by successor entities to furnish modified return of income under section 170A consequent to business reorganization.

### **CIRCULAR NO 18 OF 2022, DATED 13-09-2022**

CBDT issues additional guidelines on deduction of tax at source u/s 194R

Editorial Note : The Central Board of Direct Taxes (CBDT) has issued another set of guidelines to remove difficulties on deduction of tax at source under section 194R. The additional guidelines give clarity on earlier guidelines issued by CBDT vide Circular no. 12 of 2022.



### **SIGNIFICANT ECONOMIC PRESENCE ('SEP') RULES IN INDIA FOR NON-RESIDENT ENTITIES, EFFECTIVE FROM ASSESSMENT YEAR 2022-23 ONWARDS**

- For a Non-Resident entity which has done business with Indian party(ies) aggregating to more than INR 20 million in Financial Year (FY) 2021-22 or has a user base in India of more than 0.3 million, the newly enforced income-tax regulations of SEP in India are relevant

Such Non-resident entity, irrespective of whether it has a presence in India or not (such as branch office, liaison office, project office, etc.), might be required to submit tax return in India for FY 2021-22 onwards

- The due date for submission of tax return for FY 2021-22 would be

31 October 2022, if transfer pricing regulations are not applicable, or

30 November 2022, if transfer pricing regulations are applicable

- SEP provisions initially introduced in 2018 but implementation deferred till FY 2021-22, seeks to widen the tax base in India under the Income-tax Act 1961 for Non-Residents doing business with India (especially through digital means). Tax treaty benefits would be available provided the conditions for eligibility are satisfied.

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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

Royalties/Fee for technical services - Bandwidth service : Where assessee paid bandwidth charges towards bandwidth services provided by its UK based AE, since neither there was transfer of any intellectual property nor any exclusive right was granted to assessee for using any intellectual property, said payment made by assessee was not royalty under section 9(1)(vi) - Madura Coats (P.) Ltd v. Deputy Commissioner of Income-tax (International Taxation) - [2022] 142 taxmann.com 356 (Bangalore - Trib.)

Royalties/fee for technical services - Make available : Where assessee paid bandwidth charges towards bandwidth services provided by its UK based Associated Enterprise, in view of facts that there was no any technical information, knowledge or skill, know-how or process that was made available to assessee in order to independently use it, said payment made by assessee to AE could not be held to be taxable in India -



Permanent Establishment - Fixed PE, place of business : Where assessee paid bandwidth charges towards bandwidth services provided by its UK based AE, in view of fact that said AE did not have PE in India, said payment made by assessee could not be held to be taxable in India as per section 9 as well as DTAA - Madura Coats (P.) Ltd v. Deputy Commissioner of Income-tax (International Taxation) - [2022] 142 taxmann.com 356 (Bangalore - Trib.)

Royalties/fees for technical services - Computer software : Expenditure incurred towards purchase of off-shelf software products is not in nature of 'Royalty' for use of copyright in software and, thus, not liable for withholding tax under section 195 - AMEC Foster Wheeler India (P.) Ltd. v. Deputy

Commissioner of Income-tax - [2022] 142 taxmann.com 382 (Chennai - Trib.)

#### SECTION 68 OF THE INCOME-TAX ACT, 1961 - CASH CREDIT

Unsecured loans : Where assessee-firm claimed to have received unsecured loans during relevant years, however, it could not prove genuineness of unsecured loan taken and underneath sources for making these investments, addition made by Assessing Officer under section 68 was justified - Income-tax Officer v. Sai Everest Building & Developers - [2022] 142 taxmann.com 383 (Mumbai - Trib.)

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

Adjustments - Aggregation of transactions : Aggregation is not a rule of blind application and it is to be applied in certain situations and there has to be a scientific or rational basis for adoption; unless characteristic of 'closely-linked' is satisfied, aggregation is not possible - Deputy Commissioner of

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### **Income-tax v. Gujarat Microwax (P.) Ltd. - [2022] 142 taxmann.com 357 (Ahmedabad - Trib.)**

Adjustments - Management fee : Management fee paid to AEs by assessee-company for availing various support services pursuant to management service agreement entered with AEs, merited acceptance, since rendition of such services stood proved by assessee-company by filing relevant evidence - AMEC Foster Wheeler India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2022] 142 taxmann.com 382 (Chennai - Trib.)

Methods for determination of - TNM method : Where TPO had accepted TNMM as most appropriate method in respect of 99.95 per cent transactions of export of threads, however, in respect of 0.05 per cent transactions pertaining to export of threads, he had applied CUP method by cherry picking few transactions and made TPO adjustment, since he had not assigned any reasons as to why and how a small portion of transactions was not at ALP, TPO had erred in adopting CUP method for few transactions when he had accepted

overwhelming majority of transactions under TNMM - Madura Coats (P.) Ltd. v. Deputy Commissioner of Income-tax - [2022] 142 taxmann.com 354 (Chennai - Trib.)

### **SECTION 139(5) OF THE INCOME TAX ACT, 1961 - RETURN OF INCOME - REVISED RETURN**

SC dismisses Wipro's review petition against its July 2022 judgement on law relating to Revised Return - Wipro Ltd. v. Principal Commissioner of Income-tax, III - [2022] 142 taxmann.com 562 (SC)



### **CORPORATE LAW UPDATES**

Extension of time limit for filing e-form DIR-3 KYC & web-form DIR-3 KYC (without late filing fee) upto 15 October 2022 Every Director / Designated Partner (DP) holding Director Identification No (DIN) is required to file

his / her KYC related details annually in e-Form DIR-3 KYC & web-form DIR-3 KYC on or before 30 September. Any delay in filing attracts late filing fee of Rs 5000. Ministry of Corporate Affairs (MCA) vide circular no 09/2022 dated 28 September 2022 has extended the time limit for filing above forms (without late filing fee) for FY 2021-22 till 15 October 2022.

### **CIRCULAR NO. SEBI/HO/MRD/MRD-POD-1/P/CIR/2022/128, DATED 27-09-2022**

SEBI modifies 'Daily Price Limit' for Commodity Futures Contracts to bring parity with international exchange

Editorial Note : In order to bring parity between the closing prices of domestic & international exchange, the SEBI has modified the Daily Price Limit (DPL) for Commodity Futures Contracts. Price differences occurs due to difference in calculation methodology. Therefore, SEBI directed that DPL maybe further relaxed in stages of 3% by the Exchange with cooling off period of 15 minutes in

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ISSUE NO : 20, DATE : 1<sup>st</sup> OCTOBER 2022

case where price movement in international markets is more than aggregate DPL or if international price is beyond aggregate DPL. MCA issues clarification on mandating companies to round off figures appearing in the financial statements

Editorial Note : The MCA vide Notification No. GSR 207 (E), Dated 24-03-2021 introduced an amendment in Schedule III of the Companies Act, 2013 whereby the companies were mandated to round off the figures appearing in the Financial Statements depending upon their total income.

Now, the MCA has clarified that in case the companies provide an absolute figure in e-forms i.e. AOC-4, the same shall not be treated as an incorrect certification by the professionals.

### **CIRCULAR NO. AFD/P/- CIR/2022/125, DATED 26-09-2022**

SEBI modifies operational guidelines for FPIs, DDPs and EFIs registered under Multiple Investment Managers structure

Editorial Note : SEBI has modified the operational guidelines for FPIs, DDPs and EFIs pertaining to FPIs registered under MIM structure. As per the modification, an entity that engages multiple investment managers can obtain FPI registrations mentioning the name of investment manager for each of the registration. Further, such applicants can obtain different DDPs for each registration without any external investment managers in the case of MIM structures.



### **SECTION 447 OF THE COMPANIES ACT, 2013 - PUNISHMENT - FOR FRAUD**

Where appellant was arrested for alleged violation of section 447 and was in custody for two and half years, in view of fact that period of custody had already undergone and there was no immediate possibility of commencing trial, appellant was to be released on bail - *Sujay U Desai v. Serious Fraud Investigation Office* - [2022] 142 taxmann.com 300 (SC)





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### Tax Compliance Calendar for October 2022

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 <sup>th</sup> October	September 2022	TDC/TCS deposit	Non-government Deductors
		Equalization Levy deposit	All Deductors
10 <sup>th</sup> October	September 2022	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 <sup>th</sup> October		GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover >Rs.5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤Rs. 5 crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13 <sup>th</sup> October		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
	July-Sep 2022	GSTR-1 (Outward supply return)	Taxable persons having annual turnover ≤ Rs.5 crore in FY 2021-22 and opted for QRMP scheme
14 <sup>th</sup> October	FY 2021-22	Filing of statutory auditor's appointment in form ADT-1	All companies in which statutory Auditors are appointed in the Annual General Meeting
15 <sup>th</sup> October	July - Sep 2022	a) Filing of KYC details of directors in Form Web KYC b) Filing of KYC details inform DIR-3KYC	a) All directors/designated partner holding Director Identification No (DIN) where DIN was allotted prior to 31 March 2021 b) All directors/designated partners holding DIN where DIN was allotted during FY 2021-22
		Form 27 EQ – TCS return	All Collectors
20 <sup>th</sup> October	September 2022	Deposit of PF&ESI contribution	All Deductors

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20 <sup>th</sup> October	September 2022	GSTR-3B (Summary return)	<ul style="list-style-type: none"> <li>a) Taxable person shaving annual turnover &gt; Rs.5 crore in FY2021-22</li> <li>b) Taxable person shaving annual turnover ≤ Rs.5 crore in FY2021-22 and not opted for QRMP scheme</li> </ul>
		<ul style="list-style-type: none"> <li>a) GSTR-5 (Return by Non-resident)</li> <li>b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]</li> </ul>	<ul style="list-style-type: none"> <li>a) Non-resident taxable person</li> <li>b) OIDAR services provider</li> </ul>
22 <sup>nd</sup> October	Jul-Sep 2022	GSTR-3B (Summary return)	Taxable person shaving annual turnover ≤ Rs.5 crore in FY2021-22 and opted for QRMP scheme and having principal place of business in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep
24 <sup>th</sup> October			Taxable person shaving annual turnover ≤ Rs.5 crore in FY 2021-22 and opted for QRMP scheme and having principal place of business in any other state
29 <sup>th</sup> October	FY 2021-22	Filing of audited financial statements in form AOC-4/AOC-4XBRL	All Companies
30 <sup>th</sup> October		Filing of Annual Accounts in Form 8	All LLPs
31 <sup>st</sup> October	July - Sep 2022	TDS Return	All Deductors
	Apr-Sep 2022	Filing of MSME dues in MSME Form I for the period Apr-Sep 2022	All Companies

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	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
		Transfer Pricing(TP) Report in Form 3CEB.	Taxable persons having international transaction or specified domestic transaction

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