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kcm Insight

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Dear Reader,

We are happy to present kcmInsight, comprising of important legislative changes in direct & indirect tax laws, corporate & other regulatory laws, as well as recent important decisions on direct & indirect taxes.

We hope that we are able to provide you an insight on various updates and that you will find the same informative and useful.

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- **Reduction in rates of TDS & TCS**

Various concerns were raised by the industry on problems faced in respect of TDS/TCS compliances and the resultant possible liquidity crunch faced by taxpayers. Accordingly, in order to give immediate liquidity to the taxpayers, the Government of India, as part of its Economic Package, has slashed the rates of TDS/TCS by 25% of existing rate provided under the Act for TDS from non-salaried payments to residents and TCS for certain specified transactions.

The reduced rates shall apply to payments made or amounts credited in books of account from May 14, 2020 till Mar 31, 2021, which attracts applicable provision of TDS/TCS. The Government believes that such measures will create a liquidity to the tune of Rs.50,000 cr. in the economy.

To avoid inconvenience to the taxpayers pending legislative amendments, CBDT has also issued Press Release on May 13, 2020 covering the nature of transactions and corresponding revised withholding tax rates under respective sections.

It is important to note here that TDS/TCS on payments made to non-resident shall continue to attract the existing rates. Also, in case of transactions warranting TDS/TCS at a higher rate due to non-availability of Permanent Account Number (PAN) / Aadhar of the other party, the aforesaid reduction in TDS/TCS rates shall not apply.

The Press Release does not provide clarity regarding impact of the amendment on lower TDS/TCS certificates and accordingly, taxpayer shall not apply such 25% reduction to the rates provided in such certificates. Also note that the reduction in rates of TDS may require the payee to discharge such tax liability, if arising, by way of Advance Tax, unless the Government comes up with a specific announcement in this regard.

Various corners of the industry were also evaluating the option to approach and apply to the AO under Rule 30(3) of ITA for allowing quarterly payments of TDS (as against monthly payments). Considering that the Government has already factored the hardship due to COVID-19 and thereby, provided relaxations in the form of a reduced rate of interest (0.75 per cent per month) for delayed payments of TDS without any penalty or prosecution and also with the latest announcement of reduced rates of TDS, dealing with such applications of taxpayers on case to case basis at India level, considering present working situation as well as in absence of any specific guideline to tax officers to deal with Rule 30(3), we believe that such applications will not achieve its intended objective of disposal on timely basis so as to provide any timely relief.

- **Extension in due date of filing tax returns and tax audit report for AY 2020-21**

In view of the prevailing situation due to COVID-19 pandemic, CBDT has decided to extend the due dates for filing of tax returns and tax audit report, if applicable to any taxpayer for AY 2020-21. The same is summarised as under:

Circulars & Notifications

Sr. No.	Particulars	Existing Due Date	Revised Due Date
1	Income Tax Returns for persons other than covered in Point 2 below (non-TP cases)	Jul 31, 2020	Nov 30, 2020
2	Income Tax Returns either for companies or for persons (including partners of a firm) who are required to get their accounts audited under the Act or under any other Law (non-TP cases)	Oct 31, 2020	Nov 30, 2020
3	Tax Audit (non-TP cases)	Sep 30, 2020	Oct 31, 2020

Due Date for categories mentioned in Point 2 of the above table was already extended from Sep 30, 2020 to Oct 31, 2020 vide Finance Act 2020 which now gets extended further by a month. It is important to note that no announcement has been made for cases in which Transfer Pricing (TP) is applicable. Currently, in cases where TP provisions apply, the due date of filing of tax audit report, if applicable, is Oct 31, 2020 and due date of filing of tax return is Nov 30, 2020.

- **Extension of Time Limit for completing pending assessments**

Time limit for assessment cases that were getting time barred on Sep 30, 2020 has now been extended to Dec 31, 2020. Similarly, time limit for cases that were getting time barred on Mar 31, 2021 has also been extended to Sep 30, 2021. This will have an impact on the assessments for AY 2018-19 and AY 2019-20.

- **Relief under Direct Tax Vivad se Vishwas Scheme (VsV Scheme)**

Pursuant to announcement in Budget 2020, VsV Scheme was launched in early Mar 2020 where the government gave an option to the taxpayers to settle the existing ongoing assessments / appeals by making a one-time payment till Mar 31, 2020 in respect of the outstanding tax amount. Further, the taxpayers could pay the tax amount till Jun 30, 2020 by paying an additional sum of 10%. This saw a further relaxation pursuant to Ordinance 2020 whereby a relief was provided to taxpayers to pay the entire sum0 on or before Jun 30, 2020 without the additional sum of 10%. Considering the difficulties that the taxpayers might face in paying the tax amount due to the liquidity crunch, the Finance Minister has now announced extension of the date for payment (without additional sum of 10%) from Jun 30, 2020 to Dec 31, 2020. This announcement should give sufficient time to taxpayers to evaluate their past tax positions as well as cash flow position and thereby, make an informed decision regarding the VsV Scheme.

- **Immediate disbursement of pending refunds**

In order to facilitate more funds at the disposal of the small taxpayers, the Government has decided that the outstanding refunds of all the Charitable Trusts and non-corporate businesses & professions including proprietorships, partnerships, LLPs and co-operatives shall be released immediately. This is in continuation of earlier announcement regarding clearance of pending income-tax refunds up to Rs. 5 lakhs, which were ordered to be cleared on an immediate basis.

Circulars & Notifications

Coverage

Relaxation in residency rule due to nationwide lockdown on account of COVID-19

CBDT Circular No. 11 of 2020 dated May 8, 2020

Under the ITA, the determination of fiscal domicile of any individual is dependent upon the number of days of stay in India. In view of the unprecedent lockdown in the country owing to COVID-19 situation, the residency test u/s 6 of the ITA become very critical in case of individuals who were on visit to India and were forced to extend their stay here. In much anticipated respite to such individuals, the CBDT has clarified that in case of individuals who had visited India in FY 2019-20, the number of days such individuals were forced to stay in India because of lockdown should be excluded for the purpose of determining the residential status for the FY 2019-20.

The CBDT has accordingly issued clarification for excluding following days, in respect of an individual who had arrived in India for a visit before Mar 22, 2020, for the purpose of determining residential status under the ITA for FY 2019-20.

- In case of an individual who had been quarantined owing to COVID-19 in India on any date after Mar 1, 2020, then the period starting from the date of his quarantine till the date of departure in any evacuation flight outside India or Mar 31, 2020 whichever is earlier shall be excluded.
- In case of any individual departing in any evacuation flight before Mar 31, 2020, the period starting from Mar 22, 2020 to the date of departure shall be excluded.
- In cases where an individual has been unable to leave India, the period starting from Mar 22, 2020 to Mar 31, 2020 shall be excluded.

Consideration is also expected to be given to the fact that even as on date, the international flights have not resumed their operation in India and hence, the individuals who have been forced to extend their stay in India have already surpassed the minimum threshold of 60 days stay in India during FY 2020-21. Unless similar relaxation is provided for FY 2020-21, such individuals may be exposed to residency test in the current year.

Deferment of provisions relating to new registration & re-registration of charitable and other institutions

CBDT Press Release dated May 8, 2020

The FA, 2020 has introduced provisions under the ITA whereby a new online system-based procedure for approval / registration / notification under section 10(23C), 12AA, 35 and 80G has been provided with effect from Jun 1, 2020. Further all the existing registered entities are also required to get re-registered under this new procedure within three months from the date when such provisions become effective i.e. on or before Aug 31, 2020.

Considering the uncertainty prevailing in the country due to COVID-19 pandemic, the CBDT has deferred the applicability of these provisions to Oct 1, 2020. Accordingly, all the existing registered entities are now required to get re-registered on or before Dec 31, 2020. Necessary amendments in the ITA shall be carried out in due course.

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Electronics mode of payments not compulsory to B2B industry

CBDT Circular No. 12 of 2020

As per section 269SU of ITA read with applicable rules, every person carrying on a business having total turnover / gross receipts in excess of Rs. 50 crores in the immediately preceding year is required to afford to its customers an additional facility for acceptance of payment through prescribed electronic modes such as (i) Debit Card powered by RuPay, (ii) Unified Payment Interface (UPI) (BHIM UPI) and (iii) UPI Quick Response Code (UPI QR code) (BHIM UPI QR code). Though this section was introduced to achieve the Government's objective of moving towards a cash-less economy, it also poses an administrative inconvenience in case of entities which primarily engage in B2B transactions where business dealings take place through online banking & other digital modes and there is a daily cap on execution of B2B transaction through such electronic modes.

Accordingly, the CBDT has now clarified that the requirement of having such prescribed modes of payment shall not be applicable if the following two conditions are satisfied:

- There is no transaction with retail customers during the previous year, and
- 95% of receipts during the previous year including receipt in respect of sales, turnover or gross receipt is by any mode other than cash.

Form 26AS will become more informative

CBDT Notification No. 30 of 2020 dated May 28, 2020

CBDT has replaced the existing rule pertaining to issuance of Form 26AS which provide information of TDS/TCS / other taxes with a new Rule 114-I. As per the new rule, in addition of details pertaining to TDS/TCS, the tax department shall be also required to provide information about specified financial transactions of a taxpayer which it collects from various banks / financial institutions, companies etc. It is also mandatory for the tax department to provide information relating to demand, refund, payment of taxes as well as information about the completed and pending income tax proceedings of a taxpayer. All such information is required to be uploaded by the tax department in Form 26AS within 3 months form the end of the month in which such information is received.

Further the tax department, in interest of revenue, can suo moto also upload in Form 26AS information of a taxpayer received by it from any officer, authority or body performing any function under any law or the information of a taxpayer received by the tax department from any foreign jurisdiction under a tax treaty or the information received from any other person.

The extended time limit of uploading information within 3 months may create a difficulty for taxpayers who are required to file their tax return by Jul 31 of assessment year in verifying their TDS / TCS credit in respect of tax deducted or collected on income in the last quarter of a financial year since in such cases, the tax department receives TDS / TCS return latest by May 31 of the assessment year. Hence,

in this scenario, it is advisable for the taxpayers to request the tax deductor / collector for the TDS / TCS certificate which they are required to issue no later than Jun 15 of the assessment year.

Instant PAN allotment through Aadhar

The Hon'ble Finance Minister also inaugurated the facility for instant allotment of PAN through Aadhaar based e-KYC (on near to real-time basis) on May 28, 2020. The allotment process is paperless and an electronic PAN (e-PAN) is issued to the applicants free of cost.

The process requires an applicant to go to the link provided on e-filing website of the Tax Department and to provide his valid Aadhaar no. Upon submission of a valid Aadhaar number, an OTP will be sent to the Aadhaar registered mobile number. On completion of this process, a 15-digit acknowledgement number is generated. The status of the request can be checked anytime by providing the valid Aadhaar number. Once allotted, the e-PAN can be downloaded. e-PAN is also sent to the applicant on the email id, if registered with Aadhaar.

Conversion of unpaid trading liability into equity share does not amount to cessation of liability to attract rigours of taxation u/s 41(1)

Metropolitan Transport Corporation (Chennai) Limited, TCA No. 467 of 2008, Madras High Court

The Taxpayer, a wholly owned State Government Undertaking had taken over the transport business previously run by the Tamil Nadu State Government. The Taxpayer had availed loans from the State Government on which interest accrued every year was unpaid but same had been claimed as a deduction from year to year. Pursuant to the decision of the State Government, interest payable by the Taxpayer was converted into equity shares.

The Revenue contended that conversion of unpaid interest liability of past years into equity shares amount to cessation of this liability u/s 41(1)(a). Further, by virtue of allotment of equity shares in lieu of unpaid liability, there is a shift in liability from P&L account to the Balance Sheet and thus, liability ceases to be a trading liability. The benefit derived is thus on account of trading liability within the meaning of section 41(1).

The Taxpayer on the other hand laid emphasis on the fact that the government has treated the amount as interest received and debited its account towards consequential capital outlay (allotment of equity shares). Therefore, the liability stands discharged. ITAT has also accepted the plea of the Taxpayer that instead of discharging such liability in cash, the Taxpayer has discharged its interest liability by way of issuance of equity shares.

The Madras HC held the term "remission" is a positive conduct on the part of the creditor and "cessation" on the contrary may accrue by operation of law or by way of a judicial pronouncement absolving a taxpayer from the liability or by way of a contract between the parties whereby the liability gets extinguished or it may come to an end by discharge of the debt. The HC, while deciding the case in favour of the Taxpayer, laid down the following principles.

Important Rulings

- Mere change in the nomenclature of a liability does not amount to cessation of liability so long as the Taxpayer is still under an obligation to discharge it. On recharacterization of the liability, no benefit accrues to the Taxpayer.
- In terms of section 41(1) the benefit would accrue only when the obligation to pay any sum would no longer exist. On allotment of equity shares, the unpaid liability stands fully discharged.

It is however to be noted that in the cited case, the HC has not considered the alternate plea of the department to bring the benefit derived by the Taxpayer to tax u/s 28(iv).

Loss can be set off against foreign dividend income taxable at special rate

Tata Motors Limited, ITA No. 3424/2019, Mumbai ITAT

The Taxpayer had filed its return of income wherein it had claimed set off of losses incurred during the year against foreign divided income and filed its return of income declaring a net loss. Such set off was accepted in regular assessment proceedings. Thereafter, the PCIT invoked section 263 of the ITA and reopened the proceedings on the ground that since such foreign dividend income is taxable at a special rate u/s.115BBD of the ITA, set off of losses against such income is not allowable.

The Department argued that since the foreign divided income is taxable at a lower rate without giving benefit of deduction of any expenditure or allowances, such set off shall not be allowable. The Taxpayer however argued that the order passed by the AO is not prejudicial to the interest of the revenue for the reason that if the argument of the PCIT is accepted, erstwhile profit earned by the Taxpayer shall be chargeable @30% whereas the tax department shall charge the same @15%. The Taxpayer also contended that the provisions of 115BBD being concessional provisions, should be construed liberally. The provisions of section 115BBD shall be invoked where the total income includes foreign divided income as referred in section 115BBD of the Act. Total income is required to be giving effect to the provisions relating to set-off of losses. Further, there is no expressed provision in section 115BBD of the Act to restrict such set-off of losses. Hence, the action of PCIT is not valid.

The Mumbai ITAT while accepting the above arguments of the Taxpayer with respect to computation of total income held that unlike section 115BBDA and 115BBE under chapter XII of the ITA, the scheme of Section 115BBD does not provide for any restriction on set off of losses. It restricts the deduction of in respect of any expenditure or allowances against such foreign divided income. Such expenditure or allowances cannot be interpreted to include within their meaning the term "losses". ITAT thus held that income chargeable to tax at special rate under chapter XII should therefore be required to be computed after allowing set off of loses u/s 71 of ITA.

The decision reaffirms the position that provisions relating to taxation of income at special rates do not take away the right of the

taxpayer to compute its total income unless there is a specific prohibition provided under such section. This decision will be helpful to analyse the interplay between the provisions of section 80M which allow the deduction of distribution of foreign divided income and provisions of section 115BBD of ITA.

Income Tax Return utility cannot take away the right to make statutory claim

Samir Narain Bhojwani, Writ Petition No. 2825/2019, Bombay High Court

The Taxpayer has filed writ petition under Article 226 of the Constitution of India for seeking a direction from the HC to file manual tax return for making legitimate claim in the tax return. The Taxpayer in this case wanted to set off carried forward business losses from the earlier years against income from short term capital gain in his tax return by relying upon various Tribunal decisions. The Taxpayer has contended before the HC that due to self-populated fields in electronic filing of tax return, the Taxpayer is not permitted to make any change in the field of IT utility to lodge claim which he is otherwise entitled to.

The Hon'ble HC considered the technical difficulties faced by the Taxpayer while complying with the scheme of electronic filing of tax return as per section 139D read with ITR 12. The HC held that the scheme of e-filing does not provide for manual intervention. Though, the purpose and object of e-filing of return is to achieve simplicity and uniformity in procedure, its implementation should not result into denial of any legitimate claim to a Taxpayer. Further, the HC has observed that it is for the tax officer to decide the eligibility of such claim of a Taxpayer. The Taxpayer has therefore been directed by the HC to make a representation before the CBDT to seek appropriate guidelines in respect of manual filing of tax return to make legitimate claims as per the provisions of the ITA.

This decision thus clarifies that though e-filing is a dynamic scheme of tax department, allowability of any claim under the ITA cannot be decided on the threshold of tax return field alone.

Newly registered Trust eligible for income tax approval on basis of proposed activities

Ananda Social & Educational Trust, Civil Appeal No(s). 5437-5438/ 2012, SC

There has been a considerable dispute with respect to giving approval for exemption u/s.12AA of ITA to a newly registered trust having no existing records of charitable activities. The department in this case has primarily contended that in terms of section 12AA of the ITA, the PCIT is required to satisfy that both the object and activities undertaken are genuine and if activities are not undertaken, the PCIT cannot assess the genuineness of the activities so as to give approval for registration u/s. 12AA of ITA.

The Hon'ble SC has settled the legal position by clarifying that the term *'activities'* as appearing in section 12AA includes any proposed activities and therefore, the registration u/s 12AA should not be denied merely for the reason that a trust

has yet to commence its charitable activities. The Hon'ble SC further explained that there is a difference between not carrying out the objects of the trust and carrying on activities contrary to its objects of the trust and only the later proposition may call for cancellation of registration u/s 12AA(3). The provisions of section 12AA(1) pertain to registration of Trust and not to assess what a trust has done.

It is to be noted that there is a tactical shift in the provisions of the law dealing with the process of applying for trust registration under the ITA with effect from the October 1, 2020. The new scheme provides for issuance of automatic provisional registration to newly incorporated trust up to 6 months or the time of commence of the activity of trust whichever is earlier. On starting of the activities, the trust is required to obtain final registration.

Stay of demand granted during COVID-19 situation

Pandhes Infracon (P.) Ltd, SA No 184/Mum/2020, Mumbai ITAT

Mumbai ITAT in this case had an occasion to consider the application for stay of demand filed in view of enforced lockdown because of COVID-19 scenario. The ITAT considered the plea of the Taxpayer that the bank accounts attached by the tax department cause genuine hardship for making payment of salaries to its employees in current COVID-19 situation.

The ITAT has granted stay under the peculiar direction that the funds of the Taxpayer shall be first utilized for making the payment to laborers & employees and balance to be utilized for the purpose of carrying out its business to complete buildings which are required to be provided as quarantine facilities.

The decision will be helpful to taxpayer in suitable cases for seeking appropriate stay of demand.

Circulars & Notifications

Coverage

Central Government notifies amended DTAA Protocol between India and Austria for exchange of information

Notification No.22/2020 dated April 24, 2020

The Government of India has amended the bilateral economic agreement with Austria by releasing a Protocol dated April 24, 2020 with the purpose of facilitating easy exchange of information. Per the Protocol, the replaced Article 26 on Exchange of Information (EOI) provides that the Competent Authorities of both India and Austria shall exchange such information as is *foreseeably relevant* for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed. The Protocol further inserts a new Article 26A on assistance in the collection of taxes. It provides that both countries shall lend assistance to each other in the collection of the tax to the extent needed to ensure that any exemption or reduced rate of tax granted under the Convention shall not be enjoyed by persons not entitled to such benefits

The amended protocol shall come into force from May 01, 2020.

US Tax Authorities eases "Foreign Branch" taxation rules amid COVID-19 outbreak

As a result of travel restrictions and disruptions resulting from global outbreak of COVID-19, there might be cases wherein certain business activities are temporarily carried out in a country other than United States which may result into constitution of Foreign Branch of US entities as per the existing tax laws of the US.

To avoid such difficulties, US Government has issued guidance clarifying that 'temporary activities' shall not be taken into account for the purpose of determining whether a US based corporation/ individual has a foreign branch. Temporary Activities are defined as activities of a taxpayer carried out by one or more Individuals in a country other than US during any single consecutive period of up to 60 calendar days as selected by the taxpayer in calendar year 2020 as a result of temporary stay in the foreign country due to COVID-19 emergency travel disruptions.

The guidance further states that any US corporation treating any activity as temporary activity should retain contemporaneous documentation to establish that the activities are temporary activities and should be provided to IRS on request.

Jurisdictional tax officer to monitor Equalisation Levy

PCCIT Order dated May 29, 2020

Earlier, CBDT *vide* Notification No. 20/2020 dated March 20, 2020 had authorised the Assessing Officers working in Principal Chief Commissioner of Income-tax (International Taxation) Region having jurisdiction to exercise or perform all or any powers and functions conferred on, or assigned to an AO for the purpose of Equalisation Levy introduced by Finance Act, 2016.

Pursuant to the said notification, Principal Chief Commissioner of Income-tax (International Taxation) has now issued a Jurisdiction Order (No. 01/2020) dated May 29, 2020 authorising

Circulars & Notifications

various income-tax authorities having jurisdiction in respect of the assesses for the purpose of Equalisation Levy.

This step being taken by the Government shows its seriousness towards collection, recovery and administration of Equalisation Levy which provides for a tax on online advertisement services and e-commerce transactions.

Important Rulings

Payment to non-resident sports association liable to TDS u/s 194E of ITA, DTAA benefit not available for withholding tax purpose

PILCOM, Civil Appeal No. 5749 of 2012, SC

PILCOM was a joint management committee formed by Board for Control of Cricket in India ('BCCI'), Pakistan and Sri-Lanka. The International Cricket Council ('ICC') selected these three countries to jointly host the World Cup Cricket Tournament of 1996. PILCOM made payments to various Cricket Boards/ Association from its London Bank Account without withholding any taxes for conducting the preliminary phase of the tournament and promotion of the game in their countries. Accordingly, the Assessing Officer issued notice to the taxpayer for failure to withhold tax under section 194E of the ITA.

The Department contended that the payments made are covered under the special provisions of ITA and liable to TDS @ 10% u/s 194E of the ITA. The High Court further observed that the special provision of section 115BBA does not use the phrase 'chargeability to tax' and therefore, the person required to make payment is obliged to withhold tax @ 10% u/s 194E of the ITA and the withholding provisions u/s 194E of the ITA is not affected by DTAA.

The SC stated that the most important expression in sec 195(1) consists of the words *"chargeable under the provisions of this Act"* and thus the provisions relating to withholding tax apply only to those sums which are "chargeable to tax" under the ITA. However, the SC held that this case has no application in so far as the income u/s 115BBA and 194E of the ITA were concerned. Thus, SC held that obligation to withhold tax u/s 194E of the ITA was not affected by DTAAs and accordingly, the payment was liable to withholding tax, however, the payee could plead for the benefit of DTAA later on at the time of filing of return.

The above ruling carves out a very important difference between withholding tax provisions u/s 195 and 194E of the ITA wherein recourse of DTAA can only be taken u/s 195 of the ITA and not u/s 194E of the ITA. This may raise concern among non-residents as it will mandate them to file tax returns in India in order to claim tax refunds. Neither the taxpayer, nor the Supreme Court have taken cognizance to CBDT Circular No. 787 dated February 10, 2000 wherein the reference of DTAA has been given for withholding tax purpose for section 194E of the ITA.

It will be also interesting to analyze other withholding sections dealing with payment to non-resident for verifying the eligibility of DTAA benefit considering the ratio of such decision

Important Rulings

Income earned by Airline Company from participating in pool activities not taxable in India under Article 8

Air France, ITA No. 1786 of 2012, Delhi ITAT

The taxpayer was a tax resident of France and was engaged in the operation of aircraft in international traffic. In India, the taxpayer derived income from provision of technical handling services to the other pool members of International Airlines Technical Pool ('IATP'). As per the provision of Article 8(2) ('Air Transport') of the India-France DTAA, profits earned from the participation in the IATP Pool shall be taxable in the Resident State of the taxpayer.

The taxpayer argued that the services rendered by it are part and parcel of the pool arrangement and is subject to tax at home base rather than at source as per the Article 8(2) of the India-France DTAA. The Department contended that since the services were rendered to non-pool member of IATP as well, the services cannot be said to fall under Article 8(2) of the DTAA.

The Tribunal held that although under the domestic law, the taxpayer had to pay tax in India while deriving income from Indian territory on account of business connection in India, however, as per Article 8(2) of the DTAA, Air France was exempted to pay any tax in India as its services/activities and profit thereof were derived from pool participation.

The Tribunal observed that the IATP manual clearly set out that there is no bar on member airline to provide service to non IATP Pool member and it further states that services received by non IATP Pool member would be considered as pool services for them.

The above judgement of the ITAT grants relief to the taxpayers engaged in the airline operations and who earn income from pool participation.

Activities performed by LO being 'preparatory and auxiliary' in nature falls outside the purview of the definition of PE

UAE Exchange Center, Civil Appeal No. 9775 of 2011, SC

The taxpayer, a UAE based company, was engaged in the business of providing services to Non-Resident Indians in relation to remitting funds to India. In order to carry out the business effectively, it had set up LO in India and the entire expenses of the LO in India were met exclusively out of funds received from UAE through normal banking channels. The LO was responsible for dispatching physical cheques/drafts to the beneficiaries in India.

The taxpayer had approached the AAR regarding taxability pursuant to activities carried out in India wherein the AAR had held that the activities were not preparatory or auxiliary in nature and would thus, profit attributable to the PE of the taxpayer in India would be taxable under Article 5 read with Article 7 of India-UAE DTAA. On Appeal, the High Court had held in favor of the taxpayer citing the permission granted by the RBI.

SC ruled that the High Court had already observed that the place from where the activities were carried on by the taxpayer in India was a LO and would be covered by the term PE in Article 5(2) of India-UAE DTAA. SC held that the activities of the taxpayer would,

however, qualify the expression "of preparatory or auxiliary character" as stipulated in Article 5(3)(e) of India-UAE DTAA and resultantly LO would not constitute PE in India. The SC placed reliance on permission granted by RBI to the taxpayer to carry out limited activities in India. SC held that since the LO was only allowed to provide service of delivery of cheques/drafts drawn on the banks in India, the services rendered by it were preparatory and auxiliary in nature and were covered under the ambit of Article 5(3) of India-UAE DTAA.

It is interesting to note in the given case that for the purpose of deciding the nature of activity carried out by LO, SC has referred to the permission granted by RBI to LO to carry out limited set of activities. Whether a LO would constitute a PE or not is a fact driven exercise and foreign companies operating in India should evaluate facts in detail before deciding upon existence or otherwise of a PE. There are judgments wherein Courts have gone beyond the RBI permission letter and evaluated the importance of activities carried out by LO in order to determine whether the activities are "preparatory or auxiliary" in nature.

Circulars & Notifications

Coverage

CBDT notifies Safe Harbour Rules for AY 2020-21, no change in rates

Notification No. 25 / 2020 / F. No. 370142 / 14 / 2020 - TPL dated May 20, 2020

The CBDT had notified Safe Harbour Rules in 2009 with a view to tap on prolonged disputes in Transfer Pricing matters. The Rules provided certain circumstances where, upon application and upon satisfying margin thresholds specified therein, the tax office would accept transfer price declared by the taxpayer.

The last update to safe harbour rates was made in 2017, which was applicable upto AY 2019-20. With this new notification of CBDT in May 2020, the period of applicability of rates specified in 2017 has been extended for 1 year i.e. in AY 2020-21, the same rates shall continue to apply.

It may be noted that looking at the current uncertain business scenario because of Covid-19, the industry expectation from the government was to give a certain reduction in margin thresholds for Safe Harbour. Since the government has only extended the existing rates for a single year, it is expected that some relief may be provided for coming years to match this industry sentiment.

The Rules for resolution of tax disputes under Mutual Agreement Procedure (MAP) undergoes revision

Notification No. 23 / 2020 / F. No. 370142 / 31 / 2019 - TPL dated May 6, 2020

MAP refers to the alternate dispute resolution mechanism embedded in the tax treaties whereby a taxpayer can approach the tax authority of jurisdiction where they face double taxation because of an action of tax office of that jurisdiction and upon such application, competent authority of respective jurisdictions shall attempt to resolve differences which lead to double taxation.

While India already had a MAP regulation in place for making applications to the tax authority, there were a few deviations from international best practices, which would need to be corrected. Additionally, India being a signatory of the BEPS Project of OECD was required to make these changes as per Action 14 – Making Dispute Resolution Mechanisms more effective. Pursuant to these, the CBDT revised MAP procedure in May 2020 with following pertinent changes –

- The Competent Authority (CA) shall endeavour to arrive at a resolution within average time period of 24 months.
- Form 34F, for making an application to the CA, has been amended, whereby the taxpayer shall now be able to give details of remedy sought in other jurisdiction.
- The CA shall request relevant information from the other tax jurisdiction and taxpayer to understand the action taken which is purported as not being in accordance with tax treaties.
- The resolution arrived at by the CAs of relevant jurisdictions shall be communicated to the taxpayer in writing.
- The taxpayer shall be required to communicate its acceptance / non-acceptance within 30 days of receipt of above resolution.

Questions?

Circulars & Notifications

- If the taxpayer has accepted the resolution, the said information will be passed on to relevant tax officer for giving effect to such resolution.

The highlight of this amendment is the 24 months' time period for attaining a resolution, which is a welcome step in giving certainty to taxpayers to evaluate their time involvement to attain required closure vs. cost of litigation.

Important Rulings

Suo-moto transfer pricing adjustment by Taxpayer is eligible for deduction under various tax holiday schemes

M/s. EYBGS (I) Private Ltd., IT(TP)A No.218/Bang/2015, Bangalore ITAT

The Taxpayer is a 100% Export Oriented Undertaking and is engaged in providing provision of back-office support services, which are in the nature of 'Information Technology Enabled Services' (ITES). The Taxpayer is remunerated at cost-plus basis for the services provided to its AEs. In the year under consideration, the Taxpayer had made a voluntary adjustment to its international transactions entered into with the AEs amounting to Rs. 8.11 Crores. It had also claimed deduction under Section 10AA in respect of profits of its business after giving effect to this voluntary adjustment.

The DRP had disallowed deduction under Section 10AA in respect of voluntary adjustment citing the pre-condition regarding inward remittance of foreign exchange within stipulated time for the purpose of availing the deduction.

ITAT has dealt with the provisions of Section 92C(4) pertaining disallowance of transfer pricing adjustment carried out by the Assessing Officer in the course of assessment proceedings. The ITAT has noted that in the case of the Assessee, the adjustment has not been made in the course of assessment proceedings but has been voluntarily made by the Taxpayer in its return of income.

Considering the same, it has held that although the adjustment amount forms part of profits of the business of the assessee, it is not part of export turnover or total turnover, and hence, it has ruled out the requirement of inward remittance of foreign exchange in respect of such adjustment, which is a condition prescribed by provisions of Section 10AA.

ITAT reinforces that jurisdiction of TPO is limited to determination of ALP. ALP cannot be determined based on allowability of expenses.

Hamon Cooling Systems Pvt. Ltd., ITA No. 3911/Mum/15 and 3709/Mum/17, Mumbai ITAT

The Taxpayer is engaged in business of design, manufacture, supply, erection and servicing of cooling systems, heat exchangers and air pollution control systems. The international transactions pertain to management fees, recovery of tender costs and research and development expenses.

The revenue has made and adjustment in respect of expenses in nature of management fees, tender fees and research & development expenses which pertain to other accounting periods. The DRP has held that since certain expenses incurred by the Taxpayer were in the nature of provision or pertained to a different accounting period and hence, the same should be disallowed.

The ITAT has noted that the DRP, in its order, has not disputed the arm's length price of the international transactions but has suggested that the expenses be disallowed merely for the reason that a part of the payment pertains to provision for

another year. The ITAT has further noted that the DRP has carried out adjustments to the international transactions on wholly irrelevant grounds e.g. expenses pertaining to other years, without any reference to the arm's length price of such transactions.

The ITAT has held that neither the ALP adjustments can be equated with disallowances of expenses, even though effect may be same, nor the TPO has the authority to disallow the expenses. Further, ITAT has also noted that the observations with respect to lack of evidence in support of international transactions are based on *sweeping generalisations* and incapable of legal scrutiny.

ITAT held that enhancement in adjustment to ALP by DRP is not called for if DRP as accepted the methodology followed TPO to be appropriate and they have not carried out analysis afresh.

TPO to follow steps while rejecting method selected by Taxpayer as MAM.

Geographical difference is not important factor unless impact on pricing is demonstrated.

Mott MacDonald Pvt Ltd, ITA no. 1524/Mum/14, Mumbai Tribunal

The taxpayer is engaged in the business of providing engineering consultancy services relating to oil and gas sector. It has provided such services to its UK based Associated Enterprise (AE). The company has provided the same services to non-AEs in domestic markets. It has applied internal cost-plus method as the most appropriate method to justify the international transactions with AE.

The primary issue considered here is whether a consultancy service provided to AE in foreign market (UK, in this case) be compared to consultancy services provided to domestic customers?

The revenue objected that some non-AE projects catered to domestic market whereas the AE agreement purely catered to projects outside India and hence, because of geographical difference among the two, they cannot be compared.

The ITAT noted that geographical location, by itself, is not an important factor for deciding comparability of an uncontrolled transaction, its importance lies in being one of the factors which could affect the market conditions in which respective parties operate.

If market condition, in which uncontrolled transactions have taken place are materially different than conditions in which international transaction has taken place and such a difference is on account of geographical location of the market, only then geographical location of market has to be taken into consideration for judging comparability of an uncontrolled transaction for the purpose of ascertaining the ALP.

In respect of consultancy services in such highly sophisticated area as oil and gas sector, the fact that the client is in jurisdiction A and B, by itself, does not make such factor on standalone basis.

Circulars & Notifications

Coverage

Customs

Acceptance of undertaking in lieu of bonds extended

Circular No: 26/2020 – Customs dated May 29, 2020

Facility of accepting undertaking in lieu of bond extended till June 15, 2020. Date of submission of bond extended till June 30, 2020.

Goods and Service Tax (GST)

Clarification in relaxations in relation to LUT and ITC 04

Circular No. 138/08/2020-GST dated May 06, 2020

Requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to June 30, 2020, provided the completion of such 90 days period falls within March 20, 2020 to June 29, 2020.

The time limit for furnishing of the FORM GST ITC-04 for the quarter ending March 2020 has been extended till June 30, 2020.

DGFT

Scanned Copy of PSIC to be accepted for customs clearance

Trade Notice No :09/2020-2021 dated May 06, 2020

Scanned copy of Pre-shipment inspection certificate (PSIC) document shall be accepted as of now in place of physical copy for the purpose of Customs clearance. The original physical copy of the PSIC document needs to be submitted to Customs within 60 days of clearance of the goods.

Extension in filing of as well as validity of MEIS and SEIS scrips

Public Notice No 08/2015-2020 date June 01, 2020

- MEIS and SEIS Duty credit scrips issued between March 01, 2018 to June 30, 2018 shall be valid till September 30, 2020.
- MEIS applications which attracted a late cut as on March 01, 2020, the period between March 01, 2020 and June 30, 2020 shall not be counted. The last date for submission of various categories of applications attracting late cut fee be suitably re-determined.
- For services rendered in FY 2016-17, the last date of application with 10% late cut would be June 30, 2020.

For services rendered in FY 2017-18, 5% late fees would continue to apply for applications submitted till June 30, 2020 and 10% for applications submitted till March 31, 2020.

Questions?

Important Rulings

Writ petition is not maintainable where an appeal was not filed within the extended statutory time limit

Glaxo Smith Kline Consumer Health Care Limited, Civil Appeal No. 2413/2020, SC

An appeal against the order of the Assistant Commissioner was filed belatedly before the Appellate Deputy Commissioner with a request for condonation of delay on the grounds that the appeal was filed beyond the extended period of limitation and no sufficient cause was made out for such delay. Upon rejection of the appeal, the Taxpayer approached the HC by filing a writ petition where the HC noted that the reason for delay in filing the appeal on account of default by the employee and allowed the petition by relegating the matter to the Assistant Commissioner for consideration of the matter afresh.

Upon the further appeal by the department, the SC set aside the Judgment of the HC on the ground that the HC has not given any finding on violation of principles of natural justice or non-compliance of statutory requirements by the department and observed as follows;

- Taxpayer may approach the HC to challenge the assessment order by way of writ petition on the ground that the same is without or in excess of jurisdiction including in flagrant disregard of law and rules of procedure or in violation of principles of natural justice and not when the he could have availed of an effective alternative remedy prescribed under the law
- While HC has wide powers under Article 226 of the Constitution, HC should not issue a writ inconsistent with the legislative intent explicitly contained in the statute
- Where an appeal filed beyond the extended period of limitation is not entertained, it would not become a violation of fundamental right

The fundamental point highlighted by the SC in the present case that default in filing an appeal within such statutory period prescribed under the law would not be ordinarily condoned even by a HC under writ jurisdiction. It is therefore to be kept in mind that Appeals should be filed within the time period prescribed under the relevant law as delay in filing appeal may result into an taxpayer being remedy less even where the case may be strong on merits.

Clarificatory retrospective amendments in incentive schemes to achieve original objective of such schemes would not be hit by the Doctrine of Promissory Estoppel

V.V.F. Limited & Anr Etc., Civil Appeal Nos. 2256-2263 of 2020, SC

The GOI announced an the Incentive Scheme in the form of refund of excise duty paid in cash for a period of 5 years for units set up in the Kutch district of Gujarat after the earthquake with a view to attract large scale investment and employment opportunity. Various amendments were made in the scheme after few units were already set up considering the incentive scheme resulting the change in the base of incentive as well as limiting the incentive to 29%-56%.

Important Rulings

Such units approached the HC of Gujarat and the HC set aside the subsequent amendment notifications on the ground of breach of Doctrine of Promissory Estoppel by the Government

The Revenue being aggrieved by the said decision of HC, approached the SC on the grounds that the while the Incentive Scheme was meant only for genuine manufactures, it was revealed that certain unscrupulous manufactures had indulged in different types of tax evasion tactics which led the department to issue clarifications as well as change in the base of granting exemption in the public interest.

The SC held that impugned notifications are clarificatory in nature and are issued in public interest as they seek to achieve the original object of granting the incentives. The said notifications do not take away any vested rights conferred under the original notifications and therefore, it cannot be said to be hit by the doctrine of promissory estoppel.

Though such decision of SC will be helpful to curb unscrupulous manufacturing practices for availing government incentives, it may defeat the purpose of establishing a unit in an area with lesser infrastructures in case of genuine manufacturers if the benefit is curtailed a later date.

Inclusion and exclusion of certain Incomes for calculating aggregate turnover for obtaining registration under GST

Anil Kumar Agrawal, Advance Ruling No. KAR ADRG 30/2020, Karnataka Advance Ruling

The Applicant is having receipts from various sources of income and had approached the AAR to clarify on what incomes should be taken into consideration for aggregate turnover for the purpose of obtaining registration. The AAR ruled that:

- Value of deposits, loans, or advances (where the consideration is in the form of interest or discount), rent income from residential and commercial properties and remuneration earned by a person as a Non-Executive director of a company shall be included in aggregate turnover.
- Salary and share of profit from partnership firm, remuneration earned by a person as an Executive Director i.e. employee of the Company, Dividend income and capital gain /loss on sale of shares and Maturity proceeds of life insurance policies: not be included in aggregate turnover.

The AAR has given a broad meaning to the term aggregate turnover and has sought to exclude only those incomes which have been specifically treated as neither being goods nor services.

Thus, partnership firms, individuals etc. having income from various sources need to analyse the nature of incomes from all sources and ascertain the liability to obtain a registration under GST even though majority of sources of income may be exempted.

It may be noted that earlier, in case of Clay Craft India Ltd, the AAR of Rajasthan had held that even remuneration earned by an Executive Director shall be liable to GST under RCM. While the present ruling does not give any finding on

this aspect, citing non-availability of sufficient documentation, it is pertinent to note that the AAR made a contradictory observation that the income earned by way of salary by a person being an Executive Director would not be liable to GST. The said observation is also in line with the general understanding of the industry at large.

Where goods are manufactured in India and the ownership is transferred to customer outside India without transferring the possession, GST shall be appliable

M/s Dolphine Die Cast (P) Ltd., Advance Ruling No. KAR ADRG 35/2020, Karnataka Advance Ruling

The applicant manufactures dies and raises an invoice to transfer of ownership post completion of manufacturing activity, without physical transfer of the dies. The applicant retains the physical possession of the goods till completion of the contract.

It was held that for a transaction to qualify as "Export of goods" or "Import of goods", physical movement of the goods to a place outside India or into India is mandatory. In absence of movement of goods, the place of supply is the location of such goods at the time of delivery to the recipient i.e. place of applicant.

Consequently, the present transaction shall be treated as an intra-state supply and CGST & SGST shall have to be paid on Forward Charge basis. In case, die is scrapped without moving out of country, intra/inter-state tax invoice needs to be issued depending upon the transaction.

In a reverse scenario the applicant places an order on a foreign supplier to manufacture dies and raise an invoice to transfer of ownership of goods without physical transfer i.e. the supplier retains the physical possession of the goods till completion of the contract

In such a case it was held that where post completion of order, if the dies are imported into India, it will qualify as an import of goods and tax on import needs to be paid. If the die is scraped outside India, then the transaction will be treated as "outside the purview of GST.

Considering the above decision, physical movement of goods from & to India is an integral condition for Export & Import of goods, respectively. Further the supply of goods to a customer outside India only by way of transfer of ownership without movement of goods to a place outside India may attract GST liability even where the customer is situated outside India and the consideration is received in foreign currency.

Section 84A of the Gujarat VAT Act inserted retrospectively is ultra vires and manifestly arbitrary, unreasonable

Reliance Industries ltd, SCA NO. 14206 - Gujarat High Court, SC

The SC had set aside an earlier order of the Gujarat HC (which was favour of assessee) and held against the assessee requiring reversal of ITC at 8% under clause (i) & (ii) of Section 11(3) (b) of GVAT Act instead of 4% as argued by the assessee. Based on the order of the SC, the VAT authority issued a revision notice to the assessee under Section 75 to revise the assessment orders which were quashed by the HC on account of being barred by limitation.

Important Rulings

To overcome the said judgement of the HC quashing the orders as being time barred, a new section 84A, was inserted under the GVAT, retrospectively w.e.f. April 1, 2006 for excluding the period spent from the date of passing the order which is prejudicial to the revenue till the date of obtaining a final order from Appellate Tribunal or HC or SC.

The insertion of Section 84A to the GVAT Act was challenged before the Gujarat HC wherein the HC held that that the amendment in the Act does not given any powers for any additional authorities for assessment, re-assessment or collection. Section 84A seeks t exclude the time limit spent by the authorities in assessment, litigation, appeal & revision, however, retrospective amendment does not have any effect on concluded matter and settled legal issues. Therefore, Section 84A is manifestly arbitrary and unreasonable. Section 84A of the GVAT Act is also ultra vires to COI.

Under the GVAT Act sufficient time limit has prescribed for the conducting the assessment and has offered enough time to file an appeal at all the layers. Extension of time limit through newly inserted section 84A of GVAT Act to re-open the concluded assessment within the time limit is held as unreasonable & bad in law.

Account & Audit Consideration

ICAI advisory to obtain audit report for CSR expenditure incurred through third party Trust etc.

Under section 135 of the Companies Act, 1956, wherever a company is required to comply CSR provision, it may undertake the CSR activity either by itself or through a third party being a Trust/Society or Section 8 Company/NGO provided certain conditions have been satisfied with respect to overseeing of such CSR activity by such third parties.

CSR Committee of ICAI on May 29, 2020 has provided advisory to its members and companies to whom CSR provisions under Companies Act 2013 apply. ICAI advisory provides that where a company has undertaken CSR activity through a third party / NGO, it is advised that such company should obtain an Independent Practitioner's report on utilisation of such CSR funds. Such report should be obtained from auditor / CA in practice of such third party / NGO to whom the funds are given by the company for implementing CSR activity.

To obtain such obtain such report, it is necessary that such third party / NGO prepares a statement containing the details of amounts received and its utilisation on CSR activities.

The draft formats for the above-referred statement and Independent Practitioner's Report on Utilization of CSR Funds are also provided in such advisory.

ICAI publication on considerations of subsequent events amid covid-19 pandemic

ICAI has come up with publication dated May 22, 2019 on "Subsequent Events - Key Audit Considerations amid COVID-19". Though the title of publication suggests that it is relevant to the auditors only, it is equally important from entity's perspective in a sense that it would enable the entities to better prepare themselves for dealing with subsequent events amid covid-19 pandemic in financial statements.

Subsequent events are those events which occur after the date of financial statements but before the issuance of the financial statements.

Under the current scenario, an entity has to carefully evaluate the information that becomes available to them during such intervening period.

The events occurring after the reporting period are categorised into two categories as under:

(i) Adjusting events i.e. those events which require adjustments to the amounts recognised in financial statements for the reporting period; and

(ii) Non-adjusting events i.e. those events which do not require adjustments to the amounts recognised in financial statements for the reporting period.

Management requires to apply judgement to categorise the events into one of the above categories.

Additional guidance for considering the category of event

The entity needs to identify that whether the event provides evidence of conditions existing at the end of reporting period i.e. the date of

financial statements or the conditions arose after the reporting period.

Therefore, entities need to evaluate all events that occurred after the date of the financial statements and assess, which of those events provide additional evidence of conditions that existed at the date of the financial statements and for which financial statements need to be adjusted; and the events which lead to disclosures only in financial statements.

The entity needs to disclose in the director's report the events occurring after the balance sheet date that represent material changes and commitments that are affecting the financial position of the entity.

Entities must disclose significant recognition and measurement uncertainties that might have been created by the COVID-19 pandemic in measuring various assets and liabilities. They should also disclose how they have dealt with the impact of COVID-19 on the financial position and financial performance of the entity.

Management's considerations when assessing events relating to Covid-19 pandemic after the date of the financial statements

As discussed earlier, the entity needs to exercises judgment in determining impact on the financial statements of any subsequent events related to the COVID-19 pandemic, taking into consideration the date of the financial statements, the facts and circumstances pertaining to the entity, and the conditions that existed at, or arose after, that date. As the impacts of the COVID-19 outbreak continue to evolve, including regulatory restrictions/conditions, capturing events that relate specifically to conditions that existed at the date of the financial statements, or after the date of the financial statements, will require careful assessment.

The following are the examples of events and conditions that may be affected by or exist as a result of the Covid-19 pandemic and which may be relevant for the entity to determine whether the subsequent events have occurred and if applicable, then whether the same needs to be adjusted or disclosed in the financial statements.

- Entity has entered into new commitments, borrowings or guarantees as a result of pandemic.
- Either the supplier or customer has invoked force majeure clause after the year-end thereby impacting the supply chain or availability of entity 's product by the customer.
- Entity has planned sale of assets or acquisitions of assets due to pandemic.
- Entity has made/planned to increase capital or issue of debt instruments, such as the issue of new shares or debentures, or an agreement to merge or liquidate such instruments.
- Entity needs to identify whether any of its customers is located in Covid-19 impacted countries and where they have filed for liquidation post the entity's year-end which will impact the collectability of the trade receivables. Entity needs to create doubtful

Account & Audit Consideration

debts/expected credit loss provisioning on such customers.

- Entity needs to check the probability of meeting performance vesting conditions under share-based payment arrangements and the appropriate accounting for modifications or settlements of such arrangements.
- Whether the entity is entitled to relief or economic stimulus payments provided by the government in the form of loans or grants. It is important to understand the nature of the stimulus, conditions to be complied by entities, etc. Many of the concessions have dates attached and entities need to be cognizant of those as they determine impact on the financial statements.
- Entity has to keep a check on any developments regarding contingencies (for example, new contingent liabilities or circumstances affecting the evaluation of existing contingent liabilities, the ability to meet agreed-on performance targets for contingent consideration in business combination arrangements, etc.).
- Entity needs to identify any events that are relevant to the measurement of estimates or provisions made in the financial statements. Examples include derivative and hedging considerations (e.g. where a forecast transaction is no longer highly probable), insurance claims (e.g. whether it is virtually certain that amounts are receivable under business interruption and/or other insurance and the potential disclosure of contingent assets), rebate arrangements with customers or suppliers, variable consideration, commission accruals, etc.).
- Any events occurred that are relevant to the recoverability of assets, ongoing pertinence of business, valuation assumptions and valuation of plan assets.
- Modification of existing contractual arrangements. Entity needs to identify any modifications which are done subsequent to year-end and has any impact on financial statements. Example: reduction or deferral of lease payments granted by a lessor to a lessee, modifications to debt terms, etc.).
- Change in tax considerations. Example: impact of reduced flow of goods and services on transfer pricing agreements; recoverability of deferred tax assets.
- Employee termination benefits resulting from a workforce reduction as a result of closure or reorganization of operations that occurred after the reporting date. This may be a contrary evidence in a situation where an entity is forecasting expansion in business in the subsequent year(s).
- Entity should review post the financial year, the impact on realizable values of inventory of a short-term nature in case of inability to sell the products during the period of lockdown.
- Dishonour of payments / EMI received from debtors / borrowers at a date later than 31st March 2020.
- Indications of impairment in the value of investments in companies whose businesses have been severely affected by the pandemic.

Questions?

Companies Act

Non-dispatch of physical notice of letter of offer to shareholders is not treated as violation of law

General Circular No. 21/2020 dated May 11, 2020

MCA clarified that in case of Listed Companies which comply with the SEBI Circular dated May 6, 2020 (Relaxations related to procedural matters- Issues and Listing for Rights Issue opening up to July 31, 2020), inability to dispatch the notice of letter of offer to their shareholders through registered post or speed post or courier, would not be viewed as violation of Section 62(2) of the Companies Act, 2013.

Extension of time limit for names reservation and resubmission of certain forms

MCA Portal "News and Important Update"

Name reserved for 20 days for new company incorporation or name reserved for 60 days for change of name of company, which are expiring between March 15, 2020 to May 31, 2020, would be further extended by 20/ 60 days beyond May 31, 2020 respectively.

Similarly, name reserved for 90 days for new LLP incorporation or change of name, which are expiring between March 15, 2020 to May 31, 2020, would be further extended by 20 days beyond May 31, 2020.

MCA also extended time for resubmission of forms by 15 days for company and LLP in case the last date of resubmission of form falls between March 15, 2020 to May 31, 2020.

Form IEPF-5 would be allowed to file till September 30, 2020 in case the last date of filing of e-verification Report in Form IEPF-5 falls between March 15, 2020 to May 31, 2020.

PM CARES Fund included in Schedule VIII (CSR Activities) of the Companies Act, 2013

Notification dated May 26, 2020

In line with its earlier announcement, MCA vide notification dated May 26, 2020 amended Schedule VII of the Companies Act, 2013 (Schedule VII specifies the Activities which can be considered as CSR Activities) by including Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) under Schedule VII of the Act. Therefore, any contribution to PM CARES Fund shall be considered as CSR activities. This notification shall be deemed to have come into force on March 28, 2020.

Corporate Law Measures announced under "Atmanirbhar Bharat Abhiyan"

In recent special economic and comprehensive package viz. "*Atmanirbhar Bharat Abhiyan*" as announced by the Hon'ble Finance Minister to revive the economy from COVID-19 impact, certain changes were proposed under the Companies Act, 2013. It appears that in near future, necessary amendments will be made to incorporate such changes as summarised below under the Companies Act, 2013.

De-criminalisation of certain defaults of company

- Decriminalizing violations of minor technical and procedural defaults such as improper reporting under CSR, inadequacies in Board Report, filings defaults, delay in holding AGM etc. Companies Amendment

Companies Act

Bill, 2020 is pending before Parliament to amend the Companies Act, 2013.

- Majority of sections (58 sections as against 18 sections earlier) with compoundable offence provisions to be shifted to internal adjudication mechanism. The reforms include increasing the powers of Regional Director for compounding of offences.
- 7 compoundable offences shall be done away with altogether and another 5 offences shall be covered under an alternate mechanism.
- The amendments for decriminalization of majority of compoundable offences are being initiated to reduce the burden of Courts and the NCLT.

Insolvency and Bankruptcy Code (IBC)

Certain initiatives that are in the pipeline and going to be notified soon by the Government pertaining to amendments to NCLT are:

- Minimum threshold for initiating insolvency proceedings to be increased from the exiting limit of INR 1 lac to INR 1 crore.
- A separate insolvency resolution framework for MSMEs under Section 240A of the Act to be notified shortly.
- Suspension in fresh insolvency proceedings for a period of up to one year.
- Corporate debts on account of COVID – 19 related impact shall be excluded from the definition of "default" for triggering proceedings under IBC.

Ease of Doing Business

Some other key initiatives being taken up with the objective of further Easing of Doing Business are as follows:

- Direct Listing of Indian Public Companies in overseas Stock Markets.
- Provisions of Producer Companies to be included in Companies Act, 2013.
- Private Companies with listed NCDs to be excluded from the definition of Listed Companies.
- Creation of additional / specialized benches for NCLT.
- Reduced penalties for Small Companies, One person Companies, Producer Companies and Start-ups.

SEBI

Coverage

Relaxations relating to procedural matters – Issues and Listing

SEBI/HO/CFD/DIL2/CIR/P/2020/78 dated May 6, 2020

Due to nationwide lock down on account of the COVID-19 crisis, SEBI has received a lot of representations from various market participants to extend various timelines and to provide relaxations. Following is a summary and brief of the major notifications and circulars that were issued in the month of May 2020 in the wake of the COVID-19 crisis and the extended lock down.

Regulation	Existing Provisions	Relaxations	Other conditions
77(2) of the ICDR	Service of the abridged letter of offer, application form and other issue material to shareholders may be undertaken by electronic transmission or registered post or speed post or courier service.	Failure to send such documents through physical modes i.e. registered post or speed post or courier service will not be treated as non-compliance during the lock-down period.	The issuers shall publish such documents on the websites of the company, registrar, stock exchanges and the lead manager to the rights issue.
84(1) of the ICDR	The Issuer is required to release an advertisement prior to the Issue specifying the date of opening the issue, manner in which the application has to be made, obtaining duplicate forms etc.	In addition to the requirements mentioned in Regulation 84 (1), the Issuer will also provide the manner in which the shareholders who have not been served notice electronically will apply.	The Issuer shall make use of advertisements in television channels, radio, internet etc. The advertisement should also be made available on the website of the Issuer, Registrar, Lead Managers and Stock Exchanges.
Application of Right Issue & Dematerialized Rights Entitlements (REs)	Right issue shall be made only through ASAB facility. The shareholders are required to provide their Demat account, if any details to Issuer/ Registrar to the Issue for credit of REs in respect of their physical shares.	Right issue can be made by any other non-cash mode without any charges. In absence of Demat account, shareholder may be allowed to apply as per alternative mechanism set by the Issuer.	Shareholder not having Demat account shall not be eligible to renounce his rights entitlements. Further he shall receive rights share only in Demat mode.

SEBI

Relaxation in relation to compliance with certain provisions of SEBI (LODR) Regulations 2015:

SEBI/HO/CFD/CMD1/CIR/P/2020/79 dated May 12, 2020

SEBI, in view of the COVID-19 Pandemic has decided to give further relaxations to listed entities from adhering the specific regulatory provisions of SEBI (LODR) Regulations 2015:

LODR Regulation	Existing provisions	Conditions relaxed
Regulation 36 (1) (b) and (c) & Regulation 58 (1) (b) and (c)	Listed entities and entities who have listed NCDS & NCRPS are required to send hard copies of various documents to all shareholders who have not registered email id with the company.	The listed entities who conduct their AGMs during the calendar year 2020 are now no longer need to send hard copies to the shareholders.
Regulation 44 (4)	Listed entities to send proxy form to securities holders for voting during General meetings of the members.	Proxy forms are not required to be sent if meetings are held only through electronic mode. This relaxation is given temporarily till December 31, 2020.
Regulation 12	Any payment of dividend, interest, redemption or repayment amount can be made by issue of warrants or cheque, if electronic mode of payment is not possible. Further, in case the amount payable as dividend exceeds Rs.1,500/- it shall be sent by speed post.	The requirements for issue of physical cheques will apply upon normalization of postal services. Listed entities shall endeavor to obtain bank account details and use the e-modes of payment specified in Schedule I of the LODR.
Regulation 47 & Regulation 52(8)	Listed entities & entities who have listed NCDS & NCRPS to publish advertisements in newspapers for events like notice of board meetings, financial results etc.	The relaxation was provided from the issue of such advertisement in newspaper till May 15, 2020 which has been extended for all such events scheduled till June 30, 2020.
Regulation 33(3)(b)	Listed entities which are Banking & Insurance company or having subsidiaries which are Banking & Insurance companies are required to submit consolidated financial results on quarterly/annual basis.	There is no compulsion to submit consolidated financial result for the quarter ended June 30, 2020. However, they shall continue to submit the standalone financial results as required under Regulation 33(3)(a) of the LODR.

Circulars & Notifications

Relaxation from the applicability of SEBI circular on non-compliance with the MPS requirements

SEBI/HO/CFD/CMD1/CIR/P/2020/81 Dt. May 14, 2020

As per SEBI norms, listed entities are required to have at least 25% public shareholding and its circular dated October 10, 2017 laid down the procedure to be followed by stock exchanges with respect to non-compliant companies, their promoters, and directors. The stipulation of such circular is relaxed for listed entities for whom the deadline to comply with MPS requirements falls between the period from March 1, 2020 to August 31, 2020. Recognized Stock Exchanges are advised by SEBI to not take any penal action as envisaged in such circular against such entities in case of non-compliance during the said period. Penal actions, if any, initiated by Stock Exchanges from March 1, 2020 till date for non-compliance of MPS requirements by such listed entities may be withdrawn.

Relaxations relating to procedural matters – Takeovers and Buy-back

SEBI/CIR/CFD/DCR1/CIR/P/2020/83 dt. May 14, 2020

SEBI has granted one-time relaxations pertaining to open offers and buy-back tender offers opening upto July 31, 2020 under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Buy-back of securities) Regulations, 2018. The service of letter of offer and tender form and other offer related documents to shareholders may be undertaken by electronic transmission due to COVID-19 pandemic. The acquirer or company and the manager to offer shall provide procedure for inspection of material documents electronically.

Advisory on disclosure of material impact of COVID-19 pandemic on listed entities

SEBI/HO/CFD/CMD1/CIR/P/2020/84 dated May 20, 2020

SEBI has issued an advisory on disclosure of material impact of COVID-19 to listed entities under LODR encouraging them to evaluate the impact of the COVID-19 pandemic on their business, performance and financials, both qualitatively and quantitatively and disseminate the such information to the Stock Exchange which is likely to result in a significant market reaction, if disclosed at a later date, to ensure that all the investors have access to timely, adequate and updated information. Such reporting covers following aspects

- Impact of the COVID-19 pandemic on the business
- Ability to maintain operations including the factories/units/office spaces functioning and closed down
- Schedule, if any, for restarting the operations
- Steps taken to ensure smooth functioning of operations
- Estimation of the future impact of COVID-19 on its operations
- Impact on capital and financial resources, profitability, liquidity position, ability to service debt and other financing arrangements, assets etc.
- Internal financial reporting and control, impact on supply chain; demand for its products/services

The company may disclose material updates on a regular basis and provide the impact of the COVID-19 on their financial statements along with the financial statements submitted with the Stock Exchange.

Circulars & Notification

Coverage

Import of Goods and Services – Extension of time limits for Settlement of Import payments

Notification No. RBI/2019-20/242 dated May 22, 2020

The RBI has extended the time for payment against normal import (i.e. excluding import of gold/diamonds and precious stones / jewelry) from currently 6 months to 12 months for such import made on or before July 31, 2020.

A similar action was undertaken in the month of April 2020 where the time limit for realization of export proceeds was extended from 9 months to 15 months.

Pre shipment and Post shipment Export Credit – Extension of Period of Advance

Notification No. RBI/2019-20/246 dated May 23, 2020

The sanctioned tenure for pre-shipment and post-shipment export credit by the banks has been increased from 1 year to 15 months, for disbursements made up to July 31, 2020.

The action has also been taken to rationalize the credit disbursement with the realization of export proceeds which have also been extended from 9 months to 15 months.

COVID-19 – Series of Regulatory Packages (another set of liquidity easing measures)

Notification No. RBI/2019-20/236 & 235 dated May 22, 2020, Notification No. RBI / 2019-20/ 244 dated May 23, 2020

Reduction in policy Repo Rate

The Repo Rate has been reduced under Liquidity Adjustment Facility (LAF) by 40 basis points i.e. 4.00 % as against earlier 4.40 %.

The Reverse Repo rate under the LAF stands also adjusted to 3.35%

This will have the impact of lowering the interest cost of borrowing especially home loan which is link with repo rate.

Reduction in Marginal Standing Facility

Due to reduction in repo rate by 40 basis points, the Marginal Standing Facility is also reduced by 40 points i.e. from 4.65% to 4.25%.

Rescheduling of Payments – Term Loans and Working Capital Facilities

All the banks / financial institutions are permitted to extend the moratorium by another three months i.e. instalments falling due between June 1, 2020 to August 31, 2020 in respect of term loans (including agricultural term loans, home loans, retail and crop loans). However, the interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.

Questions?

MSME Economic Reforms

In the recently announced special economic and comprehensive package amounting to INR 21 Lakh Crores termed as "*Atmanirbhar Bharat Abhiyan*", an amount of Rs 3.7 Lakh Crores has been earmarked for MSMEs. A holistic view has been taken with respect to MSMEs and the various changes proposed in the MSME sector are given below.

MSME Definition

Definition of MSMEs has undergone a change so that a larger number of companies/units which were on the threshold of moving out of the category of MSMEs can now continue with the same benefits. Investment limit micro, small and medium enterprises has been revised upwards. Additional criteria of turnover has been introduced along with the investment criteria. The differentiation in investment limits between manufacturing and service MSMEs has been done away with. Thus, manufacturing and service sector MSMEs will be treated at par both in terms of investments as well as turnover.

Further the Cabinet Meeting on June 01, 2020 also made further amendments to the announced limits (by the Hon'ble Finance Minister in her Atmanirbhar Bharat Abhiyan in May 2020) of definition of **Medium Enterprises** under the MSMED Act, 2010 so as to encompass a larger section of companies falling under the category of MSME. (*Please refer to table below*).

The cabinet meet further clarified that the export sales shall be excluded from the definition of turnover of the MSME for the purpose of determining the Turnover criteria.

Emergency Credit Line

Emergency Credit line has been announced for Standard MSMEs up to 20% of the entire outstanding credit as on February 29, 2020. Under this scheme collateral free automatic loans worth INR 3 lakh crore will be provided to borrowers with up to Rs. 25 Crore outstanding and Rs. 100 Crore turnover (*shall be covered in Notification to bring in line with increased Turnover limit for Medium Enterprises*). The loans shall be with a four (4) year tenor and will be 100 percent guaranteed. Principal repayment moratorium has been provided for 12 months. The loan scheme shall be availed till October 21, 2020. It is anticipated that ~45 lakh units will avail the benefits, allowing them to resume routine activity and safeguard employment.

Particulars	Definition as per COVID-19 Reforms Package (May 13 - May 17, 2020)			Revised Definition as per Notification (June 01, 2020)		
Classification	**Micro**	**Small**	**Medium**	**Micro**	**Small**	**Medium**
Manufacturing Enterprises / Services Enterprises	Investment < INR 1 crore and Turnover < INR 5 crore	Investment < INR 10 crore and Turnover < INR 50 crore	Investment < INR 20 crore and Turnover < INR 100 crore	Investment < INR 1 crore and Turnover < INR 5 crore – **No revision**	Investment < INR 10 crore and Turnover < INR 50 crore – **No revision**	Investment < INR 50 crore and Turnover < INR 250 crore - **Revision**

MSME Economic Reforms

Subordinate Debt for Stressed MSME

INR 20,000 crore will be infused through subordinate debt for stressed MSMEs. This credit line is expected to provide benefit to about 2 lakh MSMEs. All NPAs or stressed MSMEs shall be eligible under this scheme. Government will provide Rs 4,000 crore to CGTMSE who will provide partial guarantee to the banks passing on benefit to the stressed MSMEs. Promoters of MSME will be given debt by banks which will then be infused by promoters as equity [***approved in Cabinet meet on June 01, 2020***].

Equity Infusion for MSME – Fund of funds

INR 50,000 crore for Equity Infusion in MSME. Initial Fund of Funds (FOF) to be set up with a corpus of INR 10,000 crores. This fund will provide equity funding for MSMEs with growth potential and viability. This fund will be operated through a Mother Fund and few Daughter Funds. This fund will help to expand MSME size and its capacity. This will also encourage MSMEs to get listed on main board of stock exchanges [***approved in Cabinet meet on June 01, 2020***].

Global Tenders

Global tenders in government procurement will be disallowed for up to INR 200 crore or less. This will allow MSMEs a chance to supply for these big projects. Small units can be part of government purchases.

Since trade fairs and exhibitions will be difficult under the restrictions brought about by COVID-19, GOI shall provide e-market facilities.

Other key reforms for MSME sector includes:

- GoI and CPMEs with MSME receivables shall clear the dues within 45 days.
- CHAMPIONS platform (www.champions.gov.in) launched with an aim to resolve problems faced by MSMEs including those of procuring finance, raw materials, labour and regulatory permissions among others.

EPF Benefits

Employees Provident Fund (EPF) Benefits

The Pradhan Mantri Garib Kalyan Package (PMGKP), where the payment of 12% of employer and 12% employee contributions are made by the Government of India into EPF accounts of eligible establishments has been extended for June, July and August 2020. This relief shall provide liquidity relief of INR 2,500 crore to nearly 3.67 lakh establishments and 72.22 lakh employees.

To increase take-home salaries for those not covered in EPF benefit, the statutory PF contribution is being reduced from 12 percent to 10 percent to all establishments covered by EPFO for next 3 months. CPSEs and state PSUs shall continue to contribute 12 percent as their contribution. The employees will get an option to pay 10 percent for the next three months. This will provide liquidity of INR 6,750 crore to employers and employees over 3 months and cover about 6.5 lakh establishments covered under EPFO and about 4.3 crore such employees.

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MSME – Operational Guidelines

Emergency Credit Line Guarantee Scheme (ECLGS) – Guidelines

Origins of the Scheme

The slew of reforms announced as a part of the five series by the Finance Minister included an INR 3,00,000 crore package for the Micro, Small and Medium Enterprises (MSME) sector as the first leg of reforms on 13th May 2020. The same has been operationalized under the Emergency Credit Line Guarantee Scheme (ECLGS).

Name of the Scheme

The name of the Scheme is Emergency Credit Line Guarantee Scheme (ECLGS) and the product that its offers to the MSMEs is called the Guaranteed Emergency Credit Line (GECL).

Loans offered under the Scheme

By Banks and Financial Institutions: Additional working capital term loan (WCTL) facility.

By NBFCs - Additional term loan facility only.

Date of Commencement

The Scheme shall be governed by the National Credit Guarantee Trustee Company (NCGTC), a Government of India undertaking which released the Scheme on 23rd May 2020.

Duration of the Scheme

The Scheme would be applicable on loans offered under the GECL facility from the date of issuance of guideline by NCGTC, which was 23rd May 2020 to 31st October 2020 or till the amount of INR 3,00,000 crore in sanctioned under the GECL facility, whichever is earlier.

[*Note: What this implies is that claims made after 31st October 2020 shall not be entertained even if the INR 3 lac crore limit remains unutilized. Thus, a very narrow window has been given to avail under the GECL facility*].

Eligible Borrowers

The eligibility criteria for availing the loan under GECL facility are as follows:

The following MSME Borrowers are eligible for the Scheme:

- Outstanding loans of up to INR 25 crore as on 29.2.2020 and;
- Annual turnover of up to INR. 100 crore for FY 2019-20 (for unaudited financials, a Declaration from the MSME borrower has to be submitted).

MSME loans would include loans issued under the PMMY on or before 29.02.2020.

The Scheme is valid for only those MSME which are outstanding in the books of MLIs. Furthermore, the loan accounts should not be categorized under SMA2 / NPA category as on 29.02.2020.

MSME entities which do not possess GST certification shall not be eligible under this Scheme (exclusion given to entities which are not mandated to obtain GST registration).

All existing loans taken by the business entity (whether formed as a Proprietorship, Company, Partnership, LLP) shall be covered for the purpose of calculating the outstanding loans. However, loans availed by the Partner / Promoter is their personal capacity shall be excluded.

[*Note: If the loan book of the MSME entity is exceeding INR 25 crore, whether with one or more MLIs, the entity shall not be eligible. Similarly, in case the MSME has turnover exceeding INR 100 core, then the same is excluded as well. Furthermore, loans availed by MSME borrowers which are categorized as NPAs or past due beyond 60 days are also ineligible for the Scheme. The prescribed*

MSME – Operational Guidelines

Coverage

parameters are very restrictive and shall benefit only the financially healthy MSMEs that have outstanding loans as on 29th February 2020. MSME registered after 29th February 2020 shall also not be eligible for this Scheme].

Eligible Loan Amount & Procedure

20 per cent of their total outstanding loans up to INR 25 crore as on 29th February 2020, subject to the borrower meeting all the eligibility criteria.

Total Outstanding Loans would comprise on balance sheet items, including outstanding amount of WC loans, Term Loans and WCTL loans. Off balance sheet and non-funded limits shall be excluded for the purpose of outstanding loan amount.

GECL facility can be availed either through one lender or multiple lenders depending upon the agreement between the MSME borrower and the MLI (for MSME with multiple MLIs).

In case the MSME borrower wishes to overdraw the limit of 20 percent from one MLI (having facility from multiple MLIs), the borrower has to obtain an No Objection Certificate (NOC) from all the MLIs.

Name of the Borrower	Overall O/s of the Borrower across MLIs	Maximum O/s of the Borrower with a single MLI	Maximum Loan Amount allowed under the Scheme	Maximum Loan Amount allowed without NOC from MLI
	A	B	C = 20% of A	D = 20% of B
Borrower Alpha	20	15	4	3
Borrower Beta	5	2	1	0.4
Borrower Theta	25	25	5	5
Borrower Delta	15	10	3	2

Interest Rate on Credit Facility:

By Banks and Financial Institutions - External benchmark rates prescribed by RBI +1% subject to a maximum of 9.25 per cent p.a.

By NBFCs – not exceeding 14 per cent p.a.

Nature of Loan Facility under GECL:

Tenor of loans issued under GECL will be for a period of four years from the date of disbursement.

No pre-payment penalty shall be levied by MLIs for early repayment.

Moratorium period of one year on the principal amount shall be provided. However, interest shall continue to be levied during the moratorium period.

The principal amount has to be repaid in 36 monthly instalments, on the completion of the moratorium period.

Security under the GECL Facility:

The WCTL / Term loan granted under GECL Facility shall rank pari passu with the existing credit facilities.

No additional collateral requirements for funding under GECL facility.

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For further analysis and discussion, you may please reach out to us.

Should you need detail understanding or more information, kindly reach out to subject team

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Abbreviations

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Abbreviation	Meaning
AAR	Authority of Advance Ruling
ASBA	Applications Supported by Blocked Amount
ADR	American Depository Receipts
AE	Associated Enterprise
AGM	Annual General Meeting
AIF	Alternate Investment Fund
AIR	Annual Information Return
ALP	Arm's length price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Person
APA	Advance Pricing Arrangements
AS	Accounting Standards
AY	Assessment Year
BBT	Buy Back Tax
BMA	Black Money (Undisclosed Foreign Income and Assets) and Imposition Tax Act 2015
BOI	Body of Individuals
BT	Business Trust
CBDT	Central Board of Direct Tax
CCA	Cost Contribution Arrangements
CFC	Controlled Foreign Corporation

Abbreviation	Meaning
CIT(A)	Commissioner of Income Tax (Appeal)
CPC	Central Processing Centre
COI	Constitution of India
CPSE	Central Public Sector Enterprise
CSR	Corporate Social Responsibility
CTA	Covered Tax Agreement
CUP	Comparable Uncontrolled Price Method
CUP	Cost Plus Method
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DRP	Dispute Resolution Panel
DTAA	Double Tax Avoidance Agreement
ECB	External Commercial Borrowing
EPF	Employee's Provident Fund
EGM	Extra-ordinary General Meeting
EOU	Export Oriented Unit
EQL	Equalization Levy
FA	Finance Act
FAR	Function Assets and Risk
FEMA	Foreign Exchange Management Act, 1999
FII	Foreign Institutional Investor

Abbreviation	Meaning
FPI	Foreign Portfolio Investor
FOF	Fund of Funds
FTC	Foreign Tax Credit
FTS	Fees for Technical Service
FY	Financial Year
GAAR	General Anti-Avoidance Rules
GDR	Global Depository Receipts
GOI	Government of India
GVAT Act	Gujarat VAT Act, 2006
HC	High Court
Hold Co	Holding Company
HUF	Hindu Undivided Family
ICAI	Institute of Chartered Accountant of India
ICDS	Income Computation and Disclosure Standards
ICDR	Issue of Capital and Disclosure Requirements
Ind-AS	Indian Accounting standards
IRDA	Insurance Regulatory and Development Authority
ITA	Income Tax Act, 1961
ITR	Income Tax Rules, 1962
ITAT	Income Tax Appellate Tribunal

Abbreviations

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Abbreviation	Meaning
ITO	Income Tax Officer
ITR	Income Tax Return
ITSC	Income Tax Settlement Commission
JCIT/DCIT	Joint/Deputy Commissioner of Income Tax
LAF	Liquidity Adjustment Facility
LIBOR	London Inter Bank Offered Rate
LIC	Life Insurance Company
LO	Liaison Office
LOB	Limitation of Benefit
LODR	Listing Obligations and Disclosure Requirements
LTA	Leave Travel Allowance
LTC	Lower TDS Certificate
LTCG	Long term capital gain
MAP	Mutual Agreement Procedure
MAT	Minimum Alternate Tax
MCA	Ministry of Corporate Affairs
MFN	Most Favored Nation clause under DTAA
MLI	Multilateral Instrument
MMR	Maximum Marginal Rate
MNE	Multinational Enterprise
MPS	Minimum Public Shareholding
MSF	Marginal Standing Facility
MSME	Micro, Small and Medium Enterprises
NBFC	Non-Banking Finance Company
NCDS	Non-convertible Debentures
NCRPS	Non-convertible Redeemable Preference Shares
NPA	Non-Performing Asset
NRI	Non-Resident Indian
OECD	The Organization for Economic Co-operation and Development
OM	Other Methods prescribed by CBDT
PAN	Permanent Account Number
PE	Permanent establishment
PPT	Principle Purpose Test
PSM	Profit Split Method
PY	Previous Year
RBI	Reserve Bank of India
RCM	Reverse Charge Mechanism
REs	Dematerialized Rights Entitlements
RNOR	Resident and Not Ordinarily Resident
ROR	Resident Ordinary Resident
RPF	Recognized Provident Fuds
RPM	Resale Price Method
SC	Supreme Court of India
SDT	Specified Domestic Transaction
SE	Secondary adjustments
SEBI	Securities Exchange Board of India
SEP	Significant economic presence
SEZ	Special Economic Zone
SFT	Specified Financial statement
SST	Security Transaction Tax
ST	Securitization Trust
STCG	Short term capital gain
TCS	Tax collected at source
TDS	Tax Deducted at Source
TNMM	Transaction Net Margin Method
TP	Transfer pricing
TPO	Transfer Pricing Officer
TPR	Transfer Pricing Report
TRO	Tax Recovery Officer
UPE	Ultimate Patent Entity
VCF	Venture Capital Fund
WHT	Withholding Tax