



NEWSLETTER



Dear Professional Colleagues,

Because of the challenges posed by the Pandemic, we are presently unable to have Physical CPE Meetings. But all efforts are being made to organize Virtual Meetings addressed by speakers of Repute on topical subjects. Respected Professionals like CA P R Ramesh, CA Tarun Jamnadas Ghia, CA Ramesh Patodia have addressed us in the recent past. In continuation of our desire to disseminate knowledge a Virtual Meeting on GST Annual Return & Audit is being organized on 20th December. I urge all members to take full advantage of these knowledge sessions.

We desire to publish this Newsletter as frequently as possible to disseminate knowledge and keep you abreast of the Library's Activities.

For any organisation to function effectively availability of funds is important. May I request the members to kindly pay their outstanding dues, if any, so that the recurring expenses can be met timely.

Despite the pandemic, we have continued our tryst with attaining knowledge & acquiring new skills. The power of the mind is infinite. I conclude this column quoting Swami Vivekananda as under.

"All knowledge that the world has ever received comes from the mind, the infinite library of the universe is in your own mind."

Wishing all of you Merry Christmas & Happy New Year.

With Warm Regards

CA (Dr.) Debashis Mitra

President
11th December, 2020



Dear Members,

I am delighted to publish this December, 2020 edition of the Newsletter of our prestigious Library.

At the outset I wish you a very Happy New Year in advance. I am sure, a lot of challenges that we are faced with in the current year will perish in the coming year.

Considering the technological developments and the pandemic, it has been decided to publish this Newsletter electronically.

We had received a very good response on our last Newsletter which has given us the enthusiasm to work harder and bring out this edition of the Newsletter with enhanced contents.

This Newsletter carries various updates on contemporary issues. I express my sincere gratitude to CA Manoj Tiwari, CA Ayush Goel, CA Abhisek Tibrewal, CA Animesh Mukhopadhyay, CA Mohit Sareen and CA Sumantra Guha for their inputs.

I must also mention that it would not have been possible to publish this e-Newsletter without the continuous support of my Co-Chairman in the Newsletter Sub-Committee CA Suman Chaudhury.

I am sure the Newsletter will help you to get updated with the various developments in our Profession.

As planned, we have included more topics and updates compared to the last edition and we commit to improve the Newsletter further.

I once again invite your feedback and suggestions at acclibrary@yahoo.com so that we can improve on various aspects of the Newsletters we publish in the coming days.



CA Debayan Patra

Chairman, Newsletter Sub-Committee
6th December, 2020

Phone: 2213-6553

Email : acclibrary@yahoo.com

Website : accountantslibrary.org





DIRECT TAX VIVAD SE VISHWAS ACT, 2020 IN A NUTSHELL

- CA Manoj Tiwari



PURPOSE OF THE SCHEME

The main purpose of the scheme is to –

- 1) Reduce pending litigation
- 2) Generate revenues for the Govt.
- 3) Relief from pending disputes by paying disputed tax and waivers from payment of interest and penalty and also immunity from prosecution.

ELIGIBILITY OF THE SCHEME

- 1) The Appeals, Writ Petition, SLPs and Arbitrations filed by Tax Payer or Department on or before 31st Jan., 2020 or Appellable Orders i.e. Orders for which time limit for filing appeal has not expired on 31st Jan., 2020.
- 2) Cases pending before Dispute Resolution Panel (DRP) or the cases where DRP has issued direction on or before 31st Jan., 2020 but Order has not yet been passed.
- 3) Cases where assessee has filed revision application u/s 264 on or before 31st Jan., 2020.
- 4) Disputes where payment has already been made shall also be eligible.

FEATURES AND CERTAIN TERMS

1. The tax payer can enter into scheme where there is disputed tax/ TDS/TCS. In case there is no disputed tax, taxpayer can opt for the scheme for pending appeals relating to disputed penalty, interest and fees. Disputed tax also includes tax on enhancement notice issued by Commissioner (Appeals).
2. Where pending dispute relates to reduction of Loss, Depreciation and MAT Credit, the tax payer has option to-
 - (a) Pay tax on reduced amount or
 - (b) Not to carry forward the said amount

3. Definition of Certain Terms-

(a) Disputed Tax= Tax + Surcharge + Cess against which appeal is pending.

(b) Tax Arrears= Disputed Tax + Penalty + Interest (Charged or Chargeable).

4. If there is any rectification pending in relation to disputed tax, the tax shall be calculated after giving effect to rectification order passed, if any.

REFUND

1. If excess payment is made before filing the declaration, refund shall be issued without interest.
2. If tax is paid after availment of benefit of Scheme and later tax payer decides to take refund of tax, refund will not be granted

PAYMENT TERMS

1. In cases where application is filed by assessee-

PARTICULARS	DISPUTED TAX	DISPUTED PENALTY, INTEREST AND FEES
If payment is made on or before 31st March, 2021	100% Search Case- 125%	25%
If payment is made after 31st March, 2021	Additional 10% If additional 10% exceeds interest and penalty, excess shall be ignored	Additional 5% If additional 5% exceeds interest and penalty, excess shall be ignored

2. In cases where applications is filed by income tax department-50% of above rates.
3. In case where the issue has been decided in favour of tax payer by higher appellate forums irrespective of year in consideration-50% of above rates.
4. If due to lack of jurisdiction, ITAT has quashed Assessment Order and department is in appeal with HC and there is no disputed tax because there is no Assessment Order. The assessee can file application under the Scheme and pay 50% of disputed tax that would be restored as if the department was to win the appeal in HC.

PROCEDURE OF FILING DECLARATION

1. STEPS

- Filing declaration in form-1 along with furnishing undertaking waiving rights for any remedy in form-2 to designated authority (DA);
 - Within 15 days DA shall grant certificate containing amount payable in form-3;
 - Declarant shall pay amt within 15 days and intimate the payment made along with proof of withdrawal of appeal in form-4;
 - Pass order in form-5 confirming payment made under scheme and grant immunity from penalty and prosecution;
2. The Form is to be filed in similar way as ITR is filed i.e. by Aadhar OTP, EVC or DSC.
 3. Appeal pending before Commissioner Appeals and Tribunal shall be deemed to have been withdrawn from the date on which certificate is issued by DA. If case is pending before High Court, Supreme Court or Arbitration declarant shall withdraw appeal with leave of Court after issuance of Certificate by DA.

EXCLUSIONS FROM SCHEME

1. Search case if disputed tax in a year is more than 5 Crores.
For Eg: If there are 7 assessments out of which in 4 assessments disputed tax is 5 crore or less then tax payer can opt for 4 assessments.
2. Where Prosecution has been initiated and is pending in Court. But if only notice for prosecution issued, the assessee is allowed to enter into the Scheme.
3. Cases involving undisclosed foreign assets and income.
4. Cases completed on the basis of information received from foreign jurisdiction.
5. Cases where person is notified under Special Courts (Trial of Offences Relating to Transactions in Securities) Act, 1992 or detained under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.
6. Cases covered under Narcotic Drugs and Psychotropic Substances Act, Unlawful Activities (Prevention) Act, Prevention of Corruption Act, Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, Prevention of Money Laundering Act, Prohibition of Benami Property Transactions Act.
7. Disputes relating to wealth tax, security transaction tax, commodity tax and equalisation levy is not covered.

CLARIFICATIONS MADE IN CIRCULAR

1. Settlement of penalty appeal without settling quantum appeal is not possible.
2. For one pending appeal all issues are required to be settled. Picking and choosing of issues are not allowed.
Eg: In case disputes tax includes qualifying tax arrears and non-qualifying tax arrears i.e. if it includes dispute relating to undisclosed foreign assets then declaration cannot be filed.

3. If Writ has been filed against notice u/s 148 and no assessment order has been passed, no declaration can be filed because there is no determination of income against said notice.
4. Waiver application filed requesting waiving of interest u/s 234A, 234B and 234C are not covered under the Scheme because Waiver applications are not appeal.
5. For Eg: If for A.Y.2012-13 assessment was completed u/s 143(3) and appeal is pending with Tribunal and later for same A.Y. order is passed u/s 147/143(3) and appeal is pending with CIT then tax payer has an option either to settle both appeals or any of the appeal. If he chooses to settle both appeal then aggregate of both tax payable shall be filed in Form-1.
6. Where tax determined by DA is not acceptable to taxpayer-
 - (a) Can appeal withdrawn be reinstated- Withdrawal of appeal is required after receiving certificate of tax payable.
 - (b) Can appeal be filed against amount determined as payable by DA in Certificate- No
7. If payment is not made due to financial difficulties after filing declaration or declarant violates any conditions of the Act, then declaration shall be null and void and appeal withdrawn shall be revived.
8. Result of this VSV cannot be applied to same issues pending before AO.

Conclusion

The Scheme is commendable because that you have to pay only disputed tax and get relief from penalty, interest and prosecution. Normally penalty and interest surpasses tax and it becomes very difficult for taxpayers to pay the full amount. The Scheme is therefore beneficial for those tax payers who do not wish to litigate or where amount of tax involved is less than tax interest and penalty. But if there is high amount of tax involved and tax payer faces liquidity crunch, it may not be possible to opt for the Scheme.



INCOME TAX UPDATES

- CA Ayush goel



NOTIFICATIONS

NOTIFICATION NO. 89/2020, DATED: 02-11-2020

MIC REDWOOD 1 RSC LIMITED, ABU DHABI, UNITED ARAB EMIRATES SPECIFIED AS PERSON FOR PURPOSES OF SECTION 10(23FE) IN RESPECT OF INVESTMENT MADE BY IT IN INDIA

SECTION 10(23FE)

In exercise of powers conferred by sub-clause (vi) of clause (b) of the Explanation to clause (23FE) of Section 10 of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), the Central Government hereby specifies the sovereign wealth fund, namely, the MIC Redwood 1 RSC Limited, Abu Dhabi, United Arab Emirates, (hereinafter referred to as "the assessee") as the specified person for the purposes of the said clause in respect of the investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as "said investments") subject to the fulfilment of the conditions

https://www.incometaxindia.gov.in/communications/notification/notification_no_89_2020.pdf

NOTIFICATION NO. 88/2020, DATED: 29-10-2020

COURT OF MUNSIF NO. 3 CUM JUDICIAL MAGISTRATE DESIGNATED AS SPECIAL COURT FOR ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH FOR PURPOSE OF SECTION 280(1)

SECTION 3(1)

In exercise of the powers conferred by sub-section (1) of section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020) (hereinafter referred to as the Act), the Central Government hereby specifies, for the purpose of the said sub-section (1), that, in a case where the specified Act is the Income-tax Act, 1961 and the compliance for the assessment year commencing on the 1st day of April, 2020, relates to -

(i) furnishing of return under section 139 thereof, the time-limit for furnishing of such return, shall -

(a) in respect of the assessee referred to in clauses (a) and (aa) of Explanation 2 to sub-section (1) of the said section 139, stand extended to the 31st day of January, 2021; and

(b) in respect of other assessee, stand extended to the 31st day of December, 2020:

Provided that the provisions of the fourth proviso to sub-section (1) of the Act shall, mutatis mutandis apply to these extensions of due date, as they apply to the date referred to in sub-clause (b) of clause (i) of the third proviso thereof.

(ii) furnishing of report of audit under any provision of that Act, the time-limit for furnishing of such report of audit shall stand extended to the 31st day of December, 2020.

https://www.incometaxindia.gov.in/communications/notification/notification_88_2020.pdf



CIRCULAR NO. 19/2020, DATED: 03-11-2020

CONDONATION OF DELAY UNDER SECTION 119(2)(B) OF THE INCOME-TAX ACT, 1961 IN FILING OF FORM NO. 10BB FOR ASSESSMENT YEAR 2016-17 AND SUBSEQUENT YEARS - REG. SECTION 10(23C)

Under the provisions of section 10(23C) of Income-tax Act, 1961 (hereafter 'Act') where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

Case Laws

ASSISTANT COMMISSIONER OF INCOME TAX vs. RUNGTA MINES PVT. LTD.

KOLKATA TRIBUNAL, Nov 20, 2020

The instant appeal filed by the Revenue is directed against the order dated 18.07.2019 passed by the Commissioner of Income Tax (Appeals)-20, Kolkata arising out of the order dated 28.12.2017 passed by the DCIT, Central Circle-1(3), Kolkata u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the assessment years 2015-16 with the following grounds:

1. Whether on the facts & circumstances of the case stated above, Ltd. CIT(A)-20, Kolkata is correct by deleting the addition under the head Railways Punitive charges of Rs. 5,26,28,266/- treating as compensatory in nature and allowable u/s 37 of the IT Act disregarding the observation of the A. O that punitive charges for overloading was penal in nature.
2. Whether on the facts & circumstances of the case stated above, Lt. CIT(A) is correct by deleting the addition under section 14A read with Rule 8D if Rs. 69,66,774/- out of total addition of Rs. 70,35,166/- by restricting provisions of rule 8D(2) (ii) limited to dividend yielding investment ignoring provisions of circular of CBDT No.5/2014 which clarifies that Rule 8D read with section 14A of the Act provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income.
3. That the Department craves the leave to addition, alter or modify or rescind the grounds hereinabove before or hearing of this appeal."

ARSHIA GLOBAL TRADCOM PVT. LTD. vs. ASSISTANT COMMISSIONER OF INCOME TAX

KOLKATA TRIBUNAL, Nov 18, 2020

Failure to disclose full and true material facts—Assessee, running a business of import and trading in textile and fabric

item filed its return of income, which was assessed u/s. 143(3)—Subsequently, case of assessee was selected for re-assessment u/s. 147—Assessee is holding a current account which was triggered for large value non cash transactions—Said transaction pattern shows high amounts of cash and non-cash credits—AO finalised such re-assessment proceedings with additions on account of suppression of income based on gross profit ratio of turnover of assessee and further addition made on account of cash credit in books of assessee being cash deposit u/s. 68 which were in turn, confirmed by CIT(A)—Held, no allegation is made by revenue upon assessee being escaped assessment—Neither any allegation that assessee has failed to disclose fully and truly all material facts for assessment, as it appears from reasons so recorded for such re-opening in absence of which no power has been vested upon AO to reopen/re-assess or re-compute income or etc—Therefore, under present facts and circumstances of case, there is no justification for such re-opening of assessment after expiry of four years from end of relevant to assessment year—Finally respectfully following judgments passed by co-ordinate bench, ITAT, Kolkata as relied on by AR in matter M/s. V2 Retails Ltd, re-opening is bad in law, arbitrary, erroneous since no allegation of failure on part of assessee fully and truly in disclosing material facts as stipulated by first provision of section 147 is present in reasons recorded for such reopening.

Assessee's appeal allowed.

DEPUTY COMMISSIONER OF INCOME TAX vs. DUNCANS INDUSTRIES (P) LTD.

KOLKATA TRIBUNAL, Nov 13, 2020

At the outset, the Ld. Counsel for the assessee pointed out that the only two grounds raised by the revenue and both the issues are covered in assessee's own case by the order of this Tribunal and the ld. CIT(A) has only followed the decisions of Tribunal to decide in favour of the assessee. Per contra, the ld. D.R could neither controvert this contention of the ld. A.R of the assessee nor point out any difference in facts or law to take another view.

Ground no. 1 raised by the revenue against the action of the ld. CIT(A) in deleting the addition was Rs. 1,07,83,489/- made as notional interest on the loans given to certain companies / persons by the assessee.

Coming to ground no.2 raised by the revenue against the action of ld. CIT(A) in allowing the claim of the assessee to write off of irrecoverable principal amount of loan which was claimed u/s 36(1)(vii) read with Section 36(2) of the Act.

In the result, appeal of the revenue is dismissed.

MOHAMMAD AYUB & ANR. VS PRINCIPAL COMMISSIONER OF INCOME TAX & ANR.

KOLKATA TRIBUNAL, Nov 05, 2020

Assessee had purchased a residential flat jointly with another assessee in addition, a further substantial stamp duty and registration fees were paid—It was held by PCIT that order passed by AO in respect of both concerned assesseees were erroneous in so far as it was prejudicial to interest of revenue—Held, PCIT has assumed his revisional jurisdiction u/s. 263 on ground that residential property purchased by both assessee jointly co-owner with 50% joint ownership, source of investment of such property, bank details etc were not verified by AO while framing assessment order—However, facts on record demonstrates that AO while framing assessment u/s. 143(3) has called for various details specifically examining source of investment of such property purchased jointly by both assesseees—Assessee has also furnished a letter to AO wherein assessee has explained each and every details of source of investment towards purchase of said residential flat—Therefore, AO has duly examined all details and thereafter framed assessment order u/s. 143(3)—Apex Court in *Malabar Industries Ltd. vs. CIT* [2000] 243 ITR 83(SC) held that twin conditions should be satisfied before jurisdiction u/s 263 is exercised by Pr. CIT—Twin conditions which need to be satisfied are that (i) order of Assessing Officer must be erroneous and (ii) as a consequence of passing an erroneous order, prejudice is caused to interest of Revenue—AO has called for necessary details regarding investment source in said residential property and assesseees in their letter received by Department has replied to all such queries and after such examination and enquiry only AO has passed assessment order, when investigation was done by AO details/evidences regarding house property were called for in such situation order of AO is not erroneous—Thereafter, once AO has taken a view after enquiry and Pr. CIT is not agreeable to that view of AO assessment order cannot be treated as an order prejudicial to interest of revenue—That further Pr. CIT has not specifically with evidences shown reasons why order of AO is erroneous and prejudicial to interest of

revenue—There is no satisfaction arrived at before assuming revisional jurisdiction by Pr.CIT, no reasons have been enumerated in his order showing any nexus between his satisfaction arrived at and assessment order being erroneous so as to be prejudicial to interest of revenue—Order passed u/s. 263 by Pr. CIT in respect of both assesseees is arbitrary, ambiguous bad in law and liable to be quashed

Assessee's appeal allowed.

DEPUTY COMMISSIONER OF INCOME TAX & ANR. vs. CENTURY PLYBOARDS (I) LTD. & ANR.

KOLKATA TRIBUNAL, Nov 04, 2020

Ground Nos. 1 to 4 of the Revenue's appeal are directed against the disallowance of Rs.34,29,000/- made by the AO u/s 14A of the Income-tax Act, 1961 (hereinafter referred to as the "Act") read with Rule 8D of the Income Tax Rules, 19621 (hereinafter referred to as the "Rules"). Briefly stated, in the facts of present case, the assessee is a company engaged in the business of manufacturing and trading of plywood, ply boards and allied products. The return of income for the year under consideration was filed by it on 28-11-2014 declaring total income of Rs.7,06,37,830/- under the normal provisions of the Act and Book Profit of Rs.64,65,80,087/- under section 115JB of the Act. In the said return, dividend income of Rs.4,89,391/- was claimed to be exempt u/s 10(34) of the Act by the assessee. In relation thereto, the assessee disallowed, demat charges of Rs.9,844/- and administrative expenses of Rs.4,89,391/- being amount equivalent to the sum of dividend income earned during the year; u/s 14A of the Act. This disallowance of Rs.4,99,235/- offered by the assessee was not acceptable to the AO. The AO instead applied Rule 8D and worked out the disallowance in terms of Rule 8D(2)(ii) & (iii) at Rs.29.31 lacs and Rs.4.98 lacs respectively. Accordingly the AO disallowed further sum of Rs.34.29 lacs u/s 14A of the Act read with Rule 8D. Aggrieved by this disallowance, the assessee preferred an appeal before the Id. CIT(A). On appeal the Id. CIT(A) deleted the disallowance. Aggrieved by the impugned order of Id. CIT(A), the Revenue is now in appeal before us.

MATARANI VINTRADE PVT. LTD. VS INCOME TAX OFFICER

KOLKATA TRIBUNAL, Nov 04, 2020

In this case on hand, the assessee had discharged its onus to prove the identity, creditworthiness and genuineness of the share applicants, and the AO was satisfied with the identity, creditworthiness and genuineness of the share applicants to the tune of Rs 20.54 crores which action of AO was a plausible view and in line with the judicial precedents discussed supra. And coming to the action of Ld CIT(A) in enhancing the addition by Rs 20.54 crores

cannot be accepted in the absence of any investigation, much less gathering of evidence by the Ld CIT(A) to disprove the documents found placed in the assessment folder, therefore section 68 addition could not have been made by Ld CIT(A).

Coming to the addition made by AO of Rs 84 Lakhs subscribed by two share applicants M/s Harmony Vanijya Pvt Ltd and M/s Omeshwar Tracom Pvt Ltd to the tune of Rs 84 lakhs, we are of the view that if the AO was not satisfied with the documents furnished by them, then the onus shifted to AO to disprove the documents furnished by assessee in respect of two share applicants and without finding any infirmity in these documents furnished by the two share subscribers, the AO could not have brushed aside the same and drew adverse view against them. Therefore, we hold that addition confirmed as well as the enhancement made by Ld CIT(A) cannot be sustained because it was merely based on surmises and conjectures. Applying the propositions of law laid down in the aforesaid case laws to the facts of this case, we are inclined to reverse the order of the Ld. Commissioner of Income Tax (Appeals) and we confirm the action of AO to accept the assessee's capital raised to the tune of Rs 20.54 crores. And in addition, we direct the AO to delete the addition of Rs 84 Lakhs made by him.

In the result, appeal of the assessee is allowed.

GANAPATI DEVELOPERS VS ASSISTANT COMMISSIONER OF INCOME TAX

KOLKATA TRIBUNAL, Nov 02, 2020

The assessee is a partnership firm and is in the business of property development and builder. It filed its return of income originally on 27.09.2013 declaring total income of Rs.28,70,560/-. This was processed u/s 143(1) of the Act. Later the AO recorded reasons for re-opening of assessment u/s 147 of the Act and issued a notice u/s 148 of the Act on 24.03.2018, re-opening the assessment. In response, the assessee filed a return of income on 26.04.2018 vide a letter dated 08.04.2018. Thereafter the assessee wrote a letter to the AO on 28.04.2018, requesting for a copy of the reasons recorded for re-opening of the assessment, so as to enable it to file objections if any. On 02.08.2018 the AO sent a letter to the assessee which are supposed to be the reasons recorded. In reply the assessee filed objections on 20.08.2018. These objections were disposed off by the AO but in the assessment order itself. Thereafter the AO framed an assessment u/s 147 read with Section 143(3) of the Act on 28.12.2018 determining the total income of Rs.1,19,68,950/- inter alia making disallowance of purchases of Rs.31,98,388/- and making an addition u/s 68 of the Act of Rs.59 lakhs, being a loan taken from M/s. Hanuman Vintrade Pvt. Ltd. Aggrieved, the assessee carried the matter in appeal challenging both the re-opening of the assessment on legal grounds as well as on merits.

In the result, the appeal of the assessee is allowed.



NOTIFICATIONS ISSUED UNDER GST IN THE MONTH OF NOVEMBER, 2020

- CA Abhisek Tibrewal



81/2020 – CT dated 10/11/2020 : The CG has appointed 10th Nov'20 as the date on which the new provisions of sub-section (1), (2) & (7) of Section 39 of the CGST Act, 2017 as amended by the Finance (No.2) Act, 2019 shall come into force.

82/2020 – CT dated 10/11/2020 : 13th amendment made to CGST Rules, 2017

Key Points:

- A new Invoice Furnishing Facility (IFF) has been introduced for quarterly return filers to furnish the details of outward supplies for each of the first two months of the quarter up to a cumulative value of Rs. 50 lakhs in each of the months, between the 1st and 13th of the succeeding month.

- W.e.f. 01.01.2021, Provisions and Format of New FORM GSTR-2A & GSTR-2B have been specified.

- Due dates for furnishing Form GSTR-3B for the months/quarters of Oct'20 to Mar'21 for taxpayers with turnover up to Rs.5 crore have been notified.

- Provisions for the payment of taxes for quarterly GSTR-3B return filers have been prescribed.

83/2020 – CT dated 10/11/2020: W.e.f 01.01.2021, the due date for monthly GSTR-1 shall be 11th of the succeeding month, whereas, the due date for quarterly filers shall be the 13th of the month succeeding such quarter.

84/2020 – CT dated 10/11/2020 : Option to file quarterly

returns now available to taxpayers having turnover upto Rs. 5 Cr.

85/2020 – CT dated 10/11/2020 :

Prescribes the manner of making payment for the first two months of the quarter for taxpayers furnishing GSTR-3B quarterly.

86/2020 – CT dated 10/11/2020 : Notification No. 76/2020 – CT dated 15/10/2020 notifying due dates of filing GSTR-3B for October 20 to March 21 has been rescinded.

87/2020 – CT dated 10/11/2020 : Due date of ITC-04 for the period July-September 2020 is extended till 30th November, 2020.

88/2020 – CT dated 10/11/2020 : W.e.f 01.01.2021, the provisions of e-invoicing shall be applicable to registered persons having turnover exceeding 100 crore rupees instead of current limit of 500 crore rupees.

89/2020 – CT dated 29/11/2020 : Penalty for Non-compliance with QR Code on B2C transactions waived from 1st December, 2020 till 31st March, 2021 subject to the compliance of the said provisions from 1st April, 2021.

143/13/2020 dated 10/11/2020 : Clarification of Provisions relating to Quarterly Return Monthly Payment Scheme. Notification No. 81/2020 - CT to 85/2020 – CT is duly summarised.



SNIPPETS ON THE RECENT DEVELOPMENTS IN COMPANIES ACT, IBC AND FCRA

- CA Animesh Mukhopadhyay



Companies Act

In terms of General Circular No 38/2020 dated 1st Dec 2020 and in continuation to the General Circular No 29/2020 dated 10th Sep 2020, relaxation of additional fees and extension of the last date of filing of Cost Audit report by virtue of CRA-4 for the year 2019-20 has been done and the said extension is upto 31st Dec 2020.

IBC

Pre-Pack Insolvency Process

The importance of corporate rescue is a vital facet of insolvency laws of any country. Corporate rescue is essential for financially stressed entities seeking to preserve value, restructure its liabilities and strive for business viability prior to initiation of formal insolvency proceedings. Pre-Pack insolvency resolution, as a mode of corporate rescue has acquired significance in some jurisdictions. The distinguishing feature of a Pre-Pack insolvency resolution is that, it is a speedy procedure which addresses the stress of the entity and provides for a restructuring plan in a cost-effective manner without resorting to the initiation of insolvency proceedings. With a view to further improve the effectiveness of the Insolvency and Bankruptcy Code, 2016, Pre-Pack insolvency resolution is the need of the hour as an additional solution with necessary checks and balances.

Filing of List of Creditors

Filing of list of creditors under clause (ca) of sub-regulation (2) of regulation 13 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 The

Insolvency and Bankruptcy Code read with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) require that the interim resolution professional or the resolution professional, as the case may be, shall verify every claim as on the insolvency commencement date and thereupon maintain a list of creditors, with specified details and update it. The list of creditors shall, inter alia, be filed with the Adjudicating Authority and shall also be displayed on the website, if any, of the corporate debtor. 2. Clause (ca) of sub-regulation (2) of regulation 13 of the CIRP Regulations, 2016 requires the interim resolution professional or the resolution professional to file the list of creditors on the electronic platform of the Board for dissemination on its website.

Press Release No. IBBI/PR/2020/16 13th November, 2020

The Insolvency and Bankruptcy Code, 2016 (Code) enables a financial creditor (FC), among others, to initiate corporate insolvency resolution process (CIRP) against a corporate debtor (CD). The FC, along with the application, is required to furnish "record of the default recorded with the information utility or such other record or evidence of default as may be specified". In exercise of this power, the IBBI amended the Regulations to specify two 'other record or evidence of default', namely, (a) certified copy of entries

SNIPPETS ON THE RECENT DEVELOPMENTS IN COMPANIES ACT, IBC AND FCRA

in the relevant account in the bankers' book, and (b) order of a court or tribunal that has adjudicated upon the non-payment of a debt.

FCRA

Press release on advisory for compliance by NGOs/associations with amended provisions in FCRA 2010 and FCRR 2011

This advisory is meant for any association that belongs to one of the following categories: (a) Those who have submitted application for registration/Prior Permission (b) Those who have submitted application for Renewal (c) Those who are yet to submit application for registration/Prior Permission (d) Those who are yet to submit application for renewal (e) those who hold valid FCRA registration/Prior Permission and are not in immediate of renewal of such certificate/PPi. The NGO/person may take note of the amendments in the FCRA, 2010 and ensure compliance. These amendments may be visited at (<https://fcraonline.nic.in>).ii. The NGO/person may take note of the amendments in the FCRR, 2011 for compliance. These amendments may be visited at (https://fcraonline.nic.in/home/PDF_Doc/fc_rules_12112020.pdf).iii. Among various requirements arising from these amendments, three key compliances relate to:

(i) Obtaining a DARPAN ID from NITI Aayog portal;

(ii) Opening the Main "FCRA Account" in SBI Parliament Street Branch, New Delhi; and

(iii) Seeding Adhaar details of all office bearers. An advisory statement on these three key compliances is attached herewith. It may be accessed at (https://fcraonline.nic.in/home/PDF_Doc/fc_rules_12112020.pdf).

iv. Regarding compliance on FCRA "Bank Accounts", a separate public notice dated 13-10-2020 has been issued with detailed clarifications, and it can be accessed at (https://fcraonline.nic.in/home/PDF_Doc/fc_notice_13102020.pdf). A standard operating procedure (SOP) to be followed by all branches of SBI is placed on the web portal (https://fcraonline.nic.in/home/PDF_Doc/fc_sop_20112020.pdf) and also available on the web portal of the State Bank of India.2. Every person/association is, therefore, requested to carefully peruse and familiarize itself with all the amendments in the Act and the Rules and

related contents as indicated above to ensure thorough compliance. NGO's proactive response would facilitate a quick and smooth transition to the amended legal regime.

PRESS RELEASE (Dated 20th Nov 2020) on STANDARD OPERATING PROCEDURE

1. The amended Foreign Contribution (Regulation) Act, 2010 mandates that every person/NGO/Association (hereinafter referred to as an "entity") that have been granted FCRA certificate of registration or prior permission under section 12 of the Act shall open an "FCRA Account" at specified branch of State Bank of India in New Delhi. The Central Government vide notification dated 7-10-2020 has notified New Delhi Main Branch (henceforth NDMB) of SBI, 11, Sansad Marg, New Delhi-110001 as specified branch.

2. Presently, there are approximately 23,000 entities which have got a Certificate of Registration or prior permission to receive foreign contribution. They now have to open a "FCRA Account" for inward remittance of any foreign contribution at the aforementioned specified branch (i.e. NDMB) on or before 31-3-2021. From the date of opening of "FCRA Account" in NDMB or from 31-3-2021, whichever is earlier, no inward remittance will be allowed in any account other than that opened in NDMB.

3. The following steps and procedure will be followed so as to ensure hassle-free opening and operation of "FCRA Account" by entities making requests for fresh FCRA registration/prior permission as well as existing FCRA registration/prior permission holders having FCRA accounts in any Branch or Bank other than NDMB Branch of SBI.

A. SOP for account opening

i. Any entity which seeks to receive foreign contribution may approach either the nearest SBI Branch or any other SBI Branch of their choice for submitting the completed Account Opening Form (AOF) for KYC/photo/signature verification, scanning and forwarding through mail as well as sending hard copy of their AOF for opening of "FCRA Account" at NDMB.

ii. The applicant shall collect the Account Opening Form (AOF) physically or download the same from the website of SBI and submit the duly filled up form along with mandatory KYC documents, for scrutiny/verification. Mandatory documents should include KYCs of signatories and KYCs of Controlling Person/Beneficial Owner (in terms of guidelines issued by RBI).

iii. The applicant shall receive an acknowledgement in this regard from the AOF accepting Branch.

iv. The AOF accepting branch of SBI would scrutinize AOF and KYC documents and email the verified documents to SBI, NDMB within 3 working days from the date of receipt of completed documents. SBI, NDMB shall confirm to the applicant entity through an email regarding receipt of AOF and other documents within 1 working day of its receipt.

v. The NDMB will intimate to the applicant entity the details of "FCRA Account" so opened within 3 working days from the date of

SNIPPETS ON THE RECENT DEVELOPMENTS IN COMPANIES ACT, IBC AND FCRA

receipt of duly verified scanned copies of complete set of AOF and KYC documents from e-mail ID of the receiving branch. The intimation will be sent by registered email ID as well as through SMS.

vi. "Entity" can maintain their existing FCRA Accounts for Keeping or Utilization purposes.

vii. The complete details of the specified branch i.e. SBI NDMB are as under:

Name of the Branch	State Bank of India, New Delhi Main Branch (NDMB).
Address of the FCRA Cell at NDMB	FCRA Cell, 1st Floor, 11, Sansad Marg, New Delhi-110001
Branch Code	00691
IFSC Code	SBIN0000691
SWIFT CODE	SBININBB104
e-Mail ID	fcra.00691@sbi.co.in
Telephone No.	011-23374392, 23374390, 23374143, 23374213

B. Process flow after opening of "FCRA Account" in case of persons entities already in possession of a Registration Certificate or prior permission of Central Govt. to receive foreign contribution through SWIFT mode.

i. The NDMB will allow receipt of foreign contribution only in the "FCRA Account" opened in NDMB after confirming that the MHA has already granted a certificate or prior permission under section 12 of FCRA, 2010. The foreign inward remittance received should invariably contain following details:

- "FCRA Account" Number of the Beneficiary in the NDMB of SBI
- SWIFT Code of NDMB (SBININBB104)
- Name of the Beneficiary
- Name of the Donor/Remitter
- Account number of the Donor/Remitter
- Donor/Remitter's Address
- Donor/Remitter's Country of Residence

ii. In case of fresh applicant/entity, the NDMB shall open the "FCRA Account" and then wait for MHA's decision on the application of the entities/persons for grant of prior permission or registration certificate. As soon as the MHA approval for such registration or prior permission is conveyed to NDMB through an e-mail, NDMB shall allow inflow of foreign contribution into the relevant account from that date.

iii. SBI, NDMB shall intimate the customers, through an e-mail and SMS regarding receipt of foreign contribution.

iv. The customers will be required to submit an undertaking detailing the purpose of the receipt of funds as per FEMA declaration and RBI guidelines to the SBI Branch, where it had initially submitted the AOF. The Branch shall then forward duly scrutinized copies to New Delhi Main Branch on the designated email id (fcra.00691@sbi.co.in).

v. Standard Forex conversion rate as permitted under the FEMA guidelines

and RBI instructions to be applied on the inflow of foreign currency. It shall be duly intimated to the account holder through an e-mail.

vi. The "FCRA Account" holder shall have complete freedom to transfer the foreign contribution (FC) received in "FCRA Account" opened in NDMB to another "FCRA Account", if any, of his choice opened in any branch of any Scheduled Commercial Bank as per its convenience for keeping or utilization. It may also avail Internet Banking facility (with full transaction rights) with the NDMB.

vii. NDMB will not levy any charges/fee etc on any transfer of foreign contribution from the "FCRA Account" to "another FCRA Account", if any, and to Utilization Account, if any, of the entity. For each such transfer, the "FCRA Account" holder to be informed through an e-mail as well as SMS immediately.

C. Grievance redressal mechanism:

If the "FCRA Account" holder raises any grievance while opening of "FCRA Account" or while operating it, the following redressal mechanism shall be available:

(i) The "FCRA Account" holder or the applicant entity may send e-mail on fcracomplaints.00691@sbi.co.in. The NDMB shall create an "FCRA Cell" to handle all such e-mails.

(ii) The applicant person/entity or the "FCRA Account" holder may also register their complaints/grievances/suggestion on 011-23374392, 23374143, 23374213.

(iii) If grievance is not redressed after accessing the aforementioned mechanism, it may be escalated through an e-mail to sbi.00691@sbi.co.in. The DGM of NDMB will handle this matter.

(iv) The escalation matrix for grievance redressal is given in the paragraph C(i), C(ii) and C(iii) above. However if the applicant person/entity is not satisfied with the grievance redressal provided, then the grievance may be escalated to D G M (I B D - I I) [e - M a i l : dgmibd2.ibg@sbi.co.in] who is the apex grievance redressal authority.



PROFESSIONAL TECH UPDATES (NOVEMBER 2020)

- CA Mohit Sareen



The Institute of Chartered Accountants of India has launched 'ICAI DIGITAL LEARNING HUB' where the members and the students can take up 225+ Self-Paced Courses, 116+ Certificate Courses and 34+ Refresher Courses. There are both free and paid courses available on different areas of work and education.

Members can earn 20 Structured CPE hours upto 31st December 2020 through a gamut of Free Self-Paced courses offered at ICAI Digital Learning Hub.

<https://learning.icai.org/iDH/icai/>

The Institute of Chartered Accountants of India is conducting 'ICAI Virtual International Conference 2020' from 17th to 19th December 2020. Conference Theme is "Accounting Profession: Augmenting Economic Stability".

<https://resource.cdn.icai.org/61938icai-vic2020.pdf>



IMPORTANT UPDATE ON CODE OF ETHICS OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

- CA Sumantra Guha



Prohibition from using designation other than Chartered Accountants (Section 7 of the CA Act, 1949)

- Every member of the Institute in practice shall, and any other member may, use the designation of a chartered accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor:
- Provided that nothing contained in this Section shall be deemed to prohibit any such person from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Chartered Accountants.

Merchant Banker / Advisor to an issue

- The members may apply for and obtain registration as category IV Merchant Banker under the SEBI's rules and regulations and act as Advisor or Consultant to an issue. In client Companies' offer documents and advertisements regarding capital issue, name and

address of the Chartered Accountant or firm of Chartered Accountants acting as Advisor or Consultant to the Issue could be indicated under the caption "Advisor/ Consultant to the Issue". However, the name and address of such Chartered Accountant/firm of Chartered Accountants should not appear prominently. Chartered accountants or firms of Chartered Accountants acting as Advisor or Consultant to an Issue should ensure that the description 'Merchant Banker' is not associated with their names in the offer documents and/or advertisements regarding capital issue of their client Companies. The mention of the name of Chartered Accountant/firm under the caption 'Merchant Banker' could be misleading, as there were four categories of Merchant Bankers and the members of the profession were permitted to register only as category IV 'Merchant Bankers', i.e. to act only as Advisor or Consultant to an Issue. Further, such members and firms should not use the designation of either 'Merchant Banker' or 'Advisor/Consultant to Issue' in their own letter heads, visiting cards, professional documents, etc. As per Regulation 3(2A) of SEBI (Merchant Bankers)

IMPORTANT UPDATE ON CODE OF ETHICS OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Accountants' Library
NEWSLETTER 2020
December

Regulations, 1992, with effect from 9th December, 1997 registration as category IV Merchant Banker has been dispensed with.

Directors of Companies, Members of political parties, position in clubs, etc.

- The members of the Institute who are also Directors in Companies, members of Political parties or Chartered Accountants Cells in the political parties, holding different positions in clubs or other organisations are not permitted to mention these positions as these would be violative of the provisions of Section 7 of the Act.

Members who are also Cost Accountants

- Though a member cannot designate himself as a Cost Accountant, he can use the letters A.C.M.A (Associate) or F.C.M.A (Fellow) after his name, when he is a member of that Institute.

Permission to mention qualifications of certain Institutions

- The members are permitted to mention membership of a foreign Institute of Accountancy, which has been recognised by the Council through a Memorandum of Understanding (MoU) / Mutual Recognition Agreement (MRA) with the said Institute.

Other Qualifications of the member

- With regard to the other qualifications of a member, which he is permitted to mention, the following observations of the Supreme Court in Institute of Chartered Financial Analyst of India (ICFAI) vs Council of the Institute of Chartered Accountants of India (ICAI) dated 16th May, 2007 are relevant:-
- "The expression 'any other qualification that he may possess', therefore, must be read as qualification other than conferred upon the member by other Institutes of Accountancy. Such qualification of accountancy may be conferred even by other Institutes. But as noticed hereinbefore, an exemption had been granted by reason of a resolution of the Institute in relation to the Institute of Cost and Works Accountants. Furthermore, a degree conferred by any university also is subject to an exemption from the rigour of the provisions of Section 7 of the Act. There cannot, therefore, be any doubt whatsoever that 'the other qualification' would mean a qualification other than granted by an Institute of Accountancy, subject of course to recognition thereof by the Institute."



PAST PRESIDENTS



***CA. G. Basu**
1947 to 1964



***CA. R. Singhi**
1965-1966



*** CA. A. Basu**
1967 to 1970



*** CA. N. C. Ghose**
1971-1972



*** CA. G. Saha**
1973-1974



***CA. M. Chatterjee**
1975



*** CA. N. N. Das**
1976



CA. A. C. Chakrabortti
1977



***CA. H. P. Mookherjee**
1978



***CA. M. C. Poddar**
1979



CA. B. D. Guha
1980-1981



***CA. A. K. Chakraborty**
1982-1983

** Since passed away*

PAST PRESIDENTS



***CA. G. P. Agrawal**
1984-1985



CA. B. Roy Chowdhury
1986-1987



***CA. R. Roy Chowdhury**
1988-1989



CA. N. Saha
1989-1990



*** CA. P. R. Samanta**
1990-1991



CA. P. K. Mookherjee
1991-1992



***CA. D. B. Sen**
1992-1993



***CA. A. N. Chatterjee**
1993-1994



CA. D. Chatterji
1994-1995



CA. P. K. Agarwalla
1995-1996



***CA. R. C. Das**
1996-1997



***CA. Dilip Basu**
1997-1998

** Since passed away*

PAST PRESIDENTS



CA. Alo Chaudhuri
1998-1999



CA. Indu Chatrath
1999-2000



CA. S. S. Samanta
2000-2001



CA. Indranil Banerjee
2001-2002



CA. Anindra Nath Chatterjee
2002-2003



CA. Santosh Kr. Bajaj
2003-2004



CA. Abhijit Bandyopadhyay
2004-2005



CA. Ranjit Kumar Ghosh
2005-2006



CA. Chandan Chattopadhyay
2006-2007



***CA. Prodosh Kumar Sen**
2007-2008



CA. Sumantra Guha
2008-2009



***CA. Hari Sankar Poddar**
2009-2010

* Since passed away

PAST PRESIDENTS



CA. Gautam Banerjee
2010-2011



CA. Krishanu Bhattacharyya
2011-2012



CA. Sreemati Ghose
2012-2013



CA. Radha Kanta Chatterjee
2013-2014



CA. Srikumar Banerjee
2014-2015



CA. Barun Kumar Ghosh
2015-2016



CA. Tushar Kanti Basu
2016-2017



CA. Malay Goswami
2017-2018



CA. Kaushick Mallick
2018-2019



CA. Animesh Mukhopadhyay
2019-2020

SUB COMMITTEE

Name of Committee	Chairman	Co-Chairman
Annual Conference	CA. Srikumar Banerjee	CA Radha Kanta Chatterjee
CPE Sub Committee	CA. Sumantra Guha	CA. Manish Tiwari
ITAT and IT Deptt Coordination Committee	CA. Manish Tiwari	CA. Santosh Kumar Bajaj
IBC and NCLT Coordination Committee	CA. Animesh Mukhopdhyay	CA. Nirupam Haldar
Membership Development Committee	CA. Ranjit Kumar Ghosh	CA. Indu Chatrath
E-Knowledge and Digitization Committee	CA. Suman Chaudhury	CA. Sukanya Ghosh
Library Committee	CA. Anindra Nath Chatterjee	CA. Alo Choudhury CA Barun Kumar Ghosh
Newsletter Committee	CA. Debayan Patra	CA. Suman Chaudhury
GST Department Co-ordination Committee	CA. Kaushik Mallick	CA Gautam Banerjee
Finance Committee	CA. Tushar Kanti Basu	CA. Indranil Banerjee
Mentoring Committee	CA. Krishanu Bhattacharyya	CA. Sreemati Ghose

TAXMANN[®]
Tax & Corporate Laws of INDIA

Subscription **2021**

Weekly In-Print Journals*

TAXMAN
THE TAX LAWS WEEKLY

- ▶ Most comprehensive & fastest reporting of Case Laws
- ▶ Acts/Rules/Circulars/Notifications pertaining to Income Tax
- ▶ Articles

**Income-tax
Tribunal
Decisions**

- ▶ Authorised Weekly Publication of Income Tax Appellate Tribunal (Ministry of Law & Justice)

**SEBI AND
CORPORATE
LAWS**
AN INSOLVENCY & COMPANY LAWS WEEKLY

- ▶ Comprehensive reporting of Judgments of Supreme Court/High Courts/NCLAT/NCLT/CAT/CCI/SAT/Appellate Tribunal for Foreign Exchange
- ▶ Acts/Rules/Circulars/Notifications pertaining to Corporate Laws
- ▶ Articles

**GOODS &
SERVICES TAX
CASES**
THE GST WEEKLY

- ▶ Comprehensive reporting of Judgments of Supreme Court/High Courts/CESTAT/AAR/AAAR on GST
- ▶ Acts/Rules/Circulars/Notifications on GST
- ▶ Your Queries
- ▶ Articles

**CORPORATE
PROFESSIONALS
TODAY**

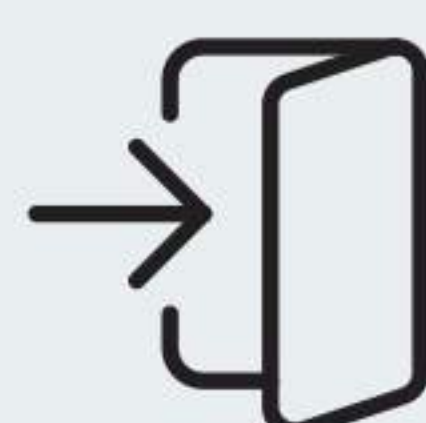
- ▶ A Weekly analysis of Judicial and Statutory happenings in the field of Income Tax, GST, Company Law, IBC and Accounts and Audit

SUBSCRIBE NOW

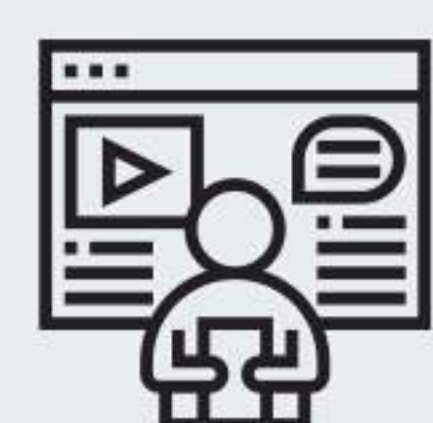
* #TaxmannCares Initiative



**DELIVERY THROUGH
REGISTERED POST**



**FREE ACCESS TO TAXMANN'S
VIRTUAL JOURNALS (E-JOURNALS)**



**PREMIUM LATEST
NEWS & UPDATES**

Kolkotta Mobile: +91 98307 33300 , +91 98195 49459

Mumbai 35, Bodke Building, Ground Floor, MG Road, Opp. Mulund Railway Station, Mulund (W), Mumbai - 400080
Tel.: +91-022-25934806/07/09, 25644807 | Mobile: +91 9322247686, 9619668669 | Email: sales.mumbai@taxmann.com



Accountants' Library

"Aayakar Bhawan"

P-7, Chowringhee Square, Kolkata-700 069

Phone: 2213-6553 • Email : acclibrary@yahoo.com • Website : accountantslibrary.org

Published by CA Debayan Patra, Vice President and Chairman of Newsletter Sub-Committee on behalf of the Accountants' Library

Disclaimer: The views expressed by the authors in this Newsletter are their personal views and not that of the Accountants' Library or any of the Members of its Committee of Management or the Members of its Newsletter Sub-Committee.