

NEWSLETTER

OCTOBER 2021

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DIRECT TAXES

Tax audit utilities released

Tax audit utilities for AY 2020-21 and 2021-22 have been enabled on the e-filing portal now. Due date for filing the form is 15th January 2022 for AY 2021-22. The same is available for download at:
<https://www.incometax.gov.in/iec/foportal/downloads/income-tax-forms>

Important Judgements

The Hon'ble Income Tax Appellate Tribunal ("the ITAT") in the matter of Dr. Swati Mahesh Vinchurkar v. Deputy Commissioner of Income-tax, Bangalore [IT APPEAL No. 43 (SRT) OF 2021 dated June 28, 2021], held that amount reflected in Form-26AS cannot be taxed unless it is established that the assessee was actual beneficiary of said payments.

Complete judgement can be accessed at:

<https://www.itatorders.in/appeal/ita-43-srt-2021-14-dr-swati-mahesh-vinchurkar-surat-dy-commissioner-of-income-tax-cpc-bengaluru>

New Annual Information System Facility launched

New Annual Information Statement (AIS) has been rolled out by the IT department on the compliance portal, providing a comprehensive view of information on various transactions and income listed above to a taxpayer with a facility to capture online feedback. The new AIS can be accessed by clicking on the link "Annual Information Statement (AIS)" under the "Services" tab on the new Income tax e-filing portal
- <https://www.incometax.gov.in/iec/foportal>

The new AIS will include additional categories of information such as those related to interest, dividend, securities transactions, mutual fund transactions and remittances from abroad.



COMPANIES ACT, 2013

MCA extends timeline for LLP filing

LLPs are required to file their Statement of Accounts and Solvency in Form 8. Due date for filing the same has been extended by the Ministry of Corporate Affairs vide its General Circular No 16/2021 for two months i.e. from 30th October, 2021 to 30th December, 2021

However, it is important to note that if LLP fails to file Form 8 within extended due date, then additional fees of ₹100/- per day will be levied from the original due date i.e. 30th October, 2021.

Circular can be accessed at:

<https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks/circulars.html>

MCA extends timeline for filing Cost Audit Report

The Ministry of Corporate Affairs (MCA) vide General Circular No. 18/2021 dated 29th October, 2021 has extended the due date of filing Cost Audit Report to the Board of Directors by another one month i.e. till 30th November, 2021. Earlier, the due date was extended from 30th Sep to 31st Oct 2021.

Circular can be accessed at:

<https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks/circulars.html>



INDIRECT TAXES

Changes in GST Rates for IPR

The CBIC vide Notification No. 13/2021-Central Tax (Rate) dated October 27, 2021 has modified the GST rates on permanent transfer of Intellectual Property Right (“IPR”) in respect of goods from 12% to 18%.

Notification can be accessed as:

<http://www.gstcouncil.gov.in/cgst-rate-notification>

Important Judgements:

West Bengal Authority for Advance Ruling in the matter of Ex-servicemen Resettlement Society [Order no. 09/WBAAR/2021-22 dated 30/09/2021] has held that GST is payable on the entire billing amount, including the Employer’s contribution of Employees Provident Fund (“EPF”) or Employee State Insurance (“ESI”), if any, falling within the complete billing amount. The judgement specifically mentions: “Regarding the point of inclusion of employer’s contribution towards EPF & ESI separately indicated in the bill, the submission of the undersigned is that, sub-section (2) of section 15 of the CGST Act 2017 (supra) categorically clarifies that each and every component of the invoice, except GST taxes, must form a part of the taxable value. Hence there is no ambiguity that EPF & ESI amount shown in the bill has to be included in the taxable value to calculate the GST liability.”

Complete judgement can be accessed at:

https://www.wbcomtax.gov.in/GST/GST_Advance_Ruling/gst_advance_ruling.html





Doing WFH due to Covid no reason to cancel of GST registration: Calcutta HC

The GST authority ordered cancelling the registration of a company on the ground that the firm was not operating from the registered place at the time of investigation due to Covid-19.

The company filed a petition following rejection of its application for revocation of the cancellation order.

The company said its application for revocation of GST registration was rejected by ignoring the relevant materials which established that at the time of inspection, the assessee was following a work-from-home (WFH) model due to the nationwide pandemic and therefore was temporarily unavailable at its registered place of business.

The Calcutta high court set aside the order cancelling the registration of a company on the ground that the firm was not operating from the registered place at the time of investigation due to Covid-19.

OTHER AMENDMENTS

Restrictions in opening current account with multiple banks

RBI, vide notification number DOR.CRE.REC.63/21.04.048/2021-22, dated 29th Oct 2021, decided that borrowers where exposure in the form of CC/OD accounts of the banking system is ₹5 crore or more, such borrower can maintain current accounts with any one of the banks with which it has CC/OD facility, provided that the bank has at least 10 per cent of the exposure of the banking system to that borrower.

Complete notification can be accessed at:

<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=12184&Mode=0>

Important Judgements

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Complete judgement can be accessed at:

https://www.wbcomtax.gov.in/GST/GST_Advance_Ruling/gst_advance_ruling.html



COMPLIANCE CALENDAR

Who Should File	Form to be filed	Period	Due Date
GST COMPLIANCE			
Persons required to deduct TDS (Tax deducted at source) under GST	GSTR 7	Oct-21	10-11-2021
E-commerce operators required to deduct TCS under GST	GSTR 8	Oct-21	10-11-2021
Taxpayers having an aggregate turnover of more than ₹1.50 Crores or opted to file Monthly Return	GSTR 1	Oct-21	11-11-2021
GST return for the taxpayers who opted for QRMP scheme (Optional)	GSTR 1 (IFF)	Oct-21	13-11-2021
Input Service Distributors	GSTR 6	Oct-21	13-11-2021
Non-Resident Taxpayers and ODIAR services provider	GSTR 5 & 5A	Oct-21	20-11-2021
The due date for GSTR-3B having an Annual Turnover of more than 5 Crores	GSTR 3B	Oct-21	20-11-2021
GST Payment if no sufficient ITC for November (for all Quarterly Filers)	GST Challan Payment	Oct-21	25-11-2021
Payment of TDS/TCS deducted /collected in October 2021	Challan No. ITNS-281	Oct-21	07-11-2021
Quarterly TDS certificate (for payments other than salary) for the quarter ending September 30, 2021	TDS Certificate	July to September 2021	15-11-2021
E-payment of Provident Fund	Challan cum Return (ECR) (PF)	Oct-21	15-11-2021
ESI payment	ESI Challan	Oct-21	15-11-2021