



Kota Branch of CIRC of ICAI

Team updates



CA Rajnee Mittal
Chairperson
Kota Branch



CA Neeraj Jain
Convener



CA Navneet Jajoo
Convener



CA Mahesh Gupta
Compiler

Tax and Corporate Updates

June 2020

INCOME TAX

Compiled by - CA Navneet Jajoo

1. CBDT notify Cost Inflation Index – 301 for the financial year 2020-21 (AY 2021-22) Notification No 32 / 2020 Dated 12th June, 2020
2. CBDT further extends various due dates – Notification No 35 / 2020 Dated 24th June, 2020

S.No.	Particulars	Existing Compliance Date as extended by Ordinance 2020	New Extended Date notified on 24/06/2020
1.	Filing of belated or revised return of income u/s 139 for A.Y. 2019-20	30 th June, 2020	31 st July, 2020
2.	Filing of Return of Income u/s 139 for A.Y. 2020-21 <i>(For the purpose of Interest u/s 234A, in case where tax payable exceeds Rs. 1 Lakh, the extended due date shall not be considered)</i>	31 st July, 2020 / 30 th September, 2020 / 30 th November, 2020 <i>(It was declared vide Press Release dated 13.05.2020 that these dates shall be extended to 30th November, 2020)</i>	30 th November, 2020 <i>(Notified now)</i>
3.	Filing of TDS or TCS Return for Q4 of F.Y. 2019-20 (For non-Government entities)	30 th June, 2020	31 st July, 2020
4.	Furnishing of Tax Audit Report for F.Y.2019-20	30 th September, 2020	31 st October, 2020

5.	Issuance of Form 16 for F.Y. 2019-20 to employees	30 th June, 2020	15 th August, 2020
6.	Time-limit for making investments u/s 54 to 54GB* to claim capital gain exemption during A.Y. 2020-21 <i>*In the Ordinance, the time-limit was extended for Sections 54 to 54GB, however, in the Notification, a typographical error appears as instead of terms "54 to 54GB", the terms "54 or 54GB" have been mentioned.</i>	30 th June, 2020	30 th September, 2020
7.	Time-limit for making compliance to claim Chapter-VIA deductions for A.Y. 2020-21	30 th June, 2020	31 st July, 2020
8.	Time-limit to file declaration under the Direct Tax Vivad Se Vishwas Act, 2020 (However, the date for making payment without the additional amount under the DTVV Act which was required to be extended to 31 st December, 2020 as per the Press Release dated 13.05.2020 has still not yet been amended vide this Notification)	31 st December, 2020 (as per the Press Release dated 13.05.2020)	31 st December, 2020 (Notified now)
9.	Time-limit for completion of any proceedings under the Income-tax Act, 1961 including assessment proceedings which fall within the period 20 th March, 2020 to 31 st December, 2020	30 th June, 2020	31 st March, 2021
10.	Aadhaar-PAN Linking	30 th June, 2020	31 st March, 2021

1. SCOPE OF SECTION 194N EXPANDED w.e.f from 01/07/2020

The provision of section 194N requires deduction of tax by a banking company or a co-op. bank or a post office at the rate of 2% from the amount withdrawn in cash from any account (saving or current account) if the aggregate of the amount of withdrawn from one or more account exceeds Rs. 1 crore during the year. The tax @ 2% shall be deducted on the amount exceeding Rs. 1 crore only subject to certain exception as provided in third and fourth proviso to this section.

A new first proviso has been inserted to Section 194N and now w.e.f from 01/07/2020 by which changes the threshold limit for deduction of tax from Rs.1 crore to Rs.20 lakh, if the person has not filed return of income (ITR) for three previous years immediately preceding the previous year in which cash is withdrawn, and the due date for filing ITR under section 139(1) has expired. The deduction of tax under this situation shall be at the rate of:

- a) 2% from the amount withdrawn in cash if the aggregate of the amount of withdrawal exceeds Rs. 20 lakhs during the previous year; or
- b) 5% from the amount withdrawn in cash if the aggregate of the amount of withdrawal exceeds Rs. 1 crore during the previous year.

4. Judicial Pronouncement

Citation	Judgement
Supreme Court of India 2020 ITL 1434 Principal Commissioner of Income Tax v. Gahoi Foods (P.) Ltd. Section 153A . 132 In favour of Assessee	The addition in respect of unaccounted production/sale and profit on such production/sale has been made by the A.O in a mechanical manner without any basis and The income has been estimated merely on the basis of imagination, presumption and suspicion. In absence of any incriminating documents seized during the course of search, the Assessing Officer is not justified in making the addition in non abated assessment orders under section 153 A read with section 143 (3) of the Act.
Supreme court of India 2020 ITL 1480 Principal Commissioner of Income Tax-19, Mumbai v. Jogani and Dialani Land Developers and Builders Section 45, 28(i) In favour of Assessee	The Respondent is a partnership firm, engaged in the business of building construction and land developers. The respondent purchased total land of 2.60 lakh sq. mtrs. A part of the purchased property had been developed by construction of buildings and remaining portion of the property admeasuring 2.10 lakh sq. mtrs was shown in its books of account as an investment and not as stock-in-trade which had been sold for a total consideration of Rs. 69 crore and after deducting the expenditure, the Respondent had offered long-term capital gains on the sale of land at Rs. 62.34 crore. Income received assessable on sale of Non-agricultural land as Long-Term Capital Gain instead of Business income. It is always open to an assessee to hold the same class of assets as investment and also as stock-in-trade. There is no bar in law for a person dealing in land to also have investment in land.
Supreme Court of India 2020 ITL 1409	<i>The non-rejection of the explanation in the Assessment Order would amount to the Assessing Officer accepting the view of the</i>

<p>THE ASSISTANT COMMISSIONER OF INCOME TAX 12 (3) (2) & ORS. V. MARICO LTD.</p> <p>Section 147, 142(1)</p> <p>In favour of the Assessee</p>	<p><i>assessee, thus taking a view/forming an opinion. Therefore subsequently, by issue notice under Section 148 in which the matter was sought to be re-opened is a mere change of opinion. Accordingly, the impugned notice is quashed and set-aside.”</i></p>
<p>Supreme Court Of India</p> <p>2020 ITL 1436</p> <p>Commissioner of Income-tax (Exemptions) v. Rajkot Jilla Gayatri Parivar Trust</p> <p>Section 80G (5)</p> <p>In favour of the Assessee</p>	<p>It is not in dispute that the respondent - assessee stands registered as a Charitable Institution under section 12-A of the Act and has been getting the registration under section 80G(5) of the Act right from the year 1993 to the year 31st March 2006 on the same kind of activities. It is also an undisputed fact that there was no change in the objects and the activities of the trust. Therefore, as a natural corollary, the application under section 80G(5) of the Act would also be liable to be allowed and deserves the registration under section 80G(5) of the Act as per the rule of consistency in view of the judgment of Hon'ble Supreme Court in the case of RadhasoamiSatsang reported in 193 ITR 321 . The issue is now squarely covered by a decision of the Supreme Court in the case of CIT v. LokSewaSansthan Samiti Sonebhadra [2019] 105 taxmann.com 203/263 Taxman 495</p>
<p>ITAT-JAIPUR</p> <p>2020 ITL 1559</p> <p>SHRI LAXMAN NAINANI M/S NAINANI MEDICO V. THE DCIT, CENTRAL CRICLE-3, JAIPUR</p> <p>Section 271(1)(c), Section 271AAB</p> <p>In favour of the assessee</p>	<p>The deeming fiction contained in section 69 and section 69B cannot be extended to the penalty proceedings under section 271(1)(c) which are separate and distinct from the assessment proceedings. Where a specific definition of undisclosed income has been provided in explanation 5A to section 271(1)(c), being a penal provision, the same must be strictly construed and in light of satisfaction of conditions specified therein. All the conditions specified explanation 5A to section 271(1)(c) is to be satisfied individually as well as cumulatively for penal proceeding.</p> <p>Similarly, regarding levy of penalty u/s 271AAB of the Act on amount surrendered during the course of search, the said surrender may be the basis for assessment but can't form the basis for levy of penalty</p>

	<p>which are separate and distinct proceedings in absence of a specific finding as to how the same qualify as an undisclosed income as so defined u/s 271AAB of the Act. Hence, penalty levied thereon is liable to be set-aside.</p>
<p>ITAT-JAIPUR</p> <p>2020 ITL 1566</p> <p>SURESH KUMAR DAPKARA V. THE ADD. CIT, RANGE-1, KOTA.</p> <p>Penalty u/s 271D</p> <p>In favour of the Assessee</p>	<p>The nature of amount so received is the cash advance against supply of goods and not loan/deposit or specified sum in relation to transfer of an immovable property and the same cannot therefore be subject to the rigour of the provisions of section 269SS of the Act. In view of the same, the consequent penalty u/s 271D so levied is hereby directed to be deleted.</p>
<p>ITAT-JAIPUR</p> <p>2020 ITL 1567</p> <p>UNION BANK OF INDIA V. ADDL. COMMISSIONER OF INCOME TAX (TDS), JAIPUR</p> <p>Penalty u/s 271C</p> <p>In favour of assessee</p>	<p>If there is a reasonable cause for non deducting the TDS by the assessee bank and the penalty so levied u/s 271C is hereby directed to be deleted under the plea that bank has acted in good faith, bona fide belief and without any male fide intention in relying on the declaration submitted by the depositors in Form No. 15G/15H</p>
<p>ITAT-JAIPUR</p> <p>2020 ITL 1487</p> <p>BLOCK DEVELOPMENT OFFICER V. A.C.I.T., CPC-TDS, GAZIABAD.</p> <p>Section 234E, 200A</p> <p>In favour of revenue</p>	<p>Since the levy of late fee as prescribed U/s 234E of the Act is mandatory and consequential, therefore, the reasonable cause for default of not submitting the TDS statements cannot be considered a ground for deletion of such levy and in absence of any such allegation that the A.O. has violated any of the provisions of Section 234E or Section 200A of the Act, the adjustment made by the A.O. on account of late filing fee U/s 234E of the Act cannot be deleted</p>
<p>ITAT-JAIPUR</p> <p>2020 ITL 1556</p> <p>CHORDIA BUILDCON PVT. LTD. V. THE DCIT,</p>	<p>The reopening of the completed assessment u/s 143(3) is without bringing any fresh material on record cannot be sustained and where the material relied upon has already been examined by the Assessing officer during the original</p>

<p>CIRCLE- 6, JAIPUR</p> <p>Section 147, 143(3) & 148</p> <p>In favour of assessee</p>	<p>assessment proceedings, it clearly amounts to change of opinion. Further where the primary facts have been truly disclosed and the issue is only with respect to the inference drawn, the AO would not have the jurisdiction to reopen assessment. But in cases where the primary facts as asserted by the Assessee for framing of assessment are subsequently discovered as false, the reopening of assessment may be justified".</p> <p>In above facts the Assessing officer doesn't have the legal basis to acquire jurisdiction for reassessment and thus, the notice issued under section 148 and consequent reassessment proceedings are quashed and set-aside.</p>
<p>HIGH COURT OF KARNATAKA</p> <p>(2020) 108 CCH 0028</p> <p>NAVIN JOLLY vs. INCOME TAX OFFICER</p> <p>(Section 54F)</p> <p>In favour of Assessee</p>	<p><i>Assessee had sold shares in the company and derived long term capital gain --- further declared to have constructed a residential property and claimed exemption under Section 54F. The assessee owns more than two residential flats on the date of transfer. The residential Flats which have been sanctioned for residential purposes and are being used for commercial purposes as serviced apartments, then the aforesaid apartments cannot be treated as residential apartments. Usage of property has to be considered for determining whether property in question is a residential property or a commercial property.</i></p>

GST UPDATES:

Compiled by - CA Devendra Kataria and Tushar Dhingra

1. Various Notifications/circulars issued during the month June 2020 as below

Notification No.	Purpose
Notification No. 50/2020 (Central Tax)	To provide Rates of Tax under Section 10 for categories of Composition Taxable Persons
Notification No. 51/2020 (Central Tax)	To provide INTEREST relief for GSTR-3B for Months February 2020 to July 2020 in Staggered Manner
Notification No. 52/2020 (Central Tax)	To provide LATE FEE relief for GSTR-3B for Months February 2020 to July 2020 in Staggered Manner + Relaxations for July 2017 to January 2020
Notification No. 53/2020 (Central Tax)	Issued to provide LATE FEE relief for GSTR-1 for Months/Quarter March 2020 to June 2020
Notification No. 54/2020 (Central Tax)	Issued to Notify extended GSTR-3B Due Dates for the month of August 2020 in Staggered Manner. (for Taxpayers having turnover up to Rs.5 Crores in Financial Year 2019-20).
Circular No. 139/09/2020 GST	For Clarification on refund related issues
Circular No. 140/10/2020 GST	Clarification in respect of levy of GST on Director's Remuneration

2. GSTR-3B LATE FEE RELAXATIONS FOR NON-FILERS FOR PERIOD JULY 2017 TO JANUARY 2020

Condition	Late Fee Capping / Limit
There is Tax Payable in Return & Return is filed between 01.07.2020 – 30.09.2020	LATE FEE FOR GSTR-3B : MAXIMUM RS.500 PER RETURN (CGST+SGST : 250+250)
Tax Payable in Return is Nil & Return is filed between 01.07.2020 – 30.09.2020	LATE FEE FOR GSTR-3B : NO LATE FEE

3. Category for Various Purposes:

Category	STATES § Taxpayer whose principal place of business is in the states of §
A	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and

	Nicobar Islands or Lakshadweep
B	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi

4. GST DUE DATES, LATE FEE AND INTEREST TAXPAYERS HAVING T/O UPTO 5 CRORES IN PRECEDING F.Y.

§CATEGORY-A†

Return Period	Due Date GSTR – 3B	Interest	Late Fee – GSTR 3B	Late Fee – GSTR1
Feb 20	No extension	Nil up to 30.06.2020 and 9% thereafter upto 30.09.2020	Nil if filed by 30.06.2020	No relaxation for monthly filers
March 2020	No extension	Nil up to 03.07.2020 and 9% thereafter upto 30.09.2020	Nil if filed by 03.07.2020	Nil if filed by 10.07.2020 (Monthly Filers) 17.07.2020 (Quarterly Filers)
April 2020	No extension	Nil up to 06.07.2020 and 9% thereafter upto 30.09.2020	Nil if filed by 06.07.2020	Nil if filed by 24.07.2020
May 2020	12.07.2020	Nil up to 12.09.2020 and 9% thereafter upto 30.09.2020	Nil if filed by 12.09.2020	Nil if filed by 28.07.2020
June 2020	No extension	Nil up to 23.09.2020 and 9% thereafter upto 30.09.2020	Nil if filed by 23.09.2020	Nil if filed by 05.08.2020 (Monthly Filers) 03.08.2020 (Quarterly Filers)

July 2020	No extension	Nil up to 27.09.2020 and 9% thereafter upto 30.09.2020	Nil if filed by 27.09.2020	-
Aug 2020	01.10.2020	-	-	-

Note: Preceding Financial Year to be based on month under consideration. e.g. for Feb.2020, preceding FY is 2018-19 and for April 2020, preceding FY is 19-20.

5. GST DUE DATES, LATE FEE AND INTEREST TAXPAYERS HAVING T/O UPTO 5 CRORES IN PRECEDING F.Y.

§CATEGORY-B (includes Rajasthan)‡ (Refer category page earlier)

Return Period	Due Date GSTR – 3B	Interest	Late Fee – GSTR 3B	Late Fee – GSTR1
Feb 20	No extension	Nil up to 04.04.2020 and 9% thereafter upto 24.06.2020	Nil if filed by 24.06.2020	No relaxation for monthly filers
March 2020	No extension	Nil up to 05.05.2020 and 9% thereafter upto 24.06.2020	Nil if filed by 24.06.2020	Nil if filed by 10.07.2020
April 2020	No extension	Nil up to 04.06.2020 and 9% thereafter upto 24.06.2020	Nil if filed by 24.06.2020	Nil if filed by 24.07.2020
May 2020	27.06.2020	-	-	Nil if filed by 28.07.2020
June 2020	-	-	-	Nil if filed by 05.08.2020

Note: Preceding Financial Year to be based on month under consideration. e.g. for Feb.2020, preceding FY is 2018-19 and for April 2020, preceding FY is 19-20.

6. GST DUE DATES, LATE FEE AND INTEREST (FOR COMPOSITION TAXABLE PERSONS)

Return Period	Due Date (Extended)
Form CMP-08 Quarter Ending March 2020	07.07.2020
Form GSTR-4 Financial Year Ending March 2020	15.07.2020

Important Clarification : For Interest Calculation, Interest @18% p.a. will be calculated from the date AFTER relaxed dates and nor from actual due date, if tax payer fails to file return till RELAXED dates.

WHEREAS, Late Fee will be calculated from ACTUAL due date if taxpayer fails to file return till relaxed date.

From Judicial Desk:

Hon'ble Supreme Court has stayed a Delhi High Court Judgement which directed the Department to open GST TRAN-1 filing till 30th June 2020.

It is to be noted that The Central Government also amended the Section 140 of CGST Act, 2017 with retrospective effect from 1st July 2017 which ultimately provided a statutory time limit under law.

CORPORATE UPDATES

Compiled by - CA. Tushar Dhingra

INSOLVENCY AND BANKRUPTCY CODE:

1. THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2020 PROMULGATED BY THE PRESIDENT TO AMEND THE INSOLVENCY AND BANKRUPTCY CODE, 2016 AS A RELIEF MEASURE DURING COVID-19
 - a. No application can be filed for initiation of corporate insolvency resolution process of corporate debtor for any default on or after 25th March 2020 up to 24th September 2020. This date may further be extended but not beyond 24th March 2021.
 - b. This is to be kept in mind that application can be filed for any default committed before 25th March 2020.

http://www.mca.gov.in/Ministry/pdf/IBCAmendBill_05062020.pdf

2. EXTENSION OF TIME FOR MEETINGS

The ministry earlier issued circulars for providing clarifications on passing of ordinary and special resolutions by companies by holding Extraordinary General Meetings (EGMs) through video conferencing (VC) or other audiovisual means (OAVM) or passing of certain items only through Postal Ballot without convening general meeting. This was allowed up to 30th June 2020 and the same has now been extended up to 30th September 2020.

Document Link: http://www.mca.gov.in/Ministry/pdf/Circular22_15062020.pdf

MCA has further extended the date upto which the requirement of holding Board Meetings with physical presence of directors under section 173(2) read with Rule 4 of the companies (Meetings of Board and its powers) Rules, 2014 shall not be applicable. Such meetings may be held through video conferencing or other audio visual means till 30.09.2020.

3. SCHEME FOR RELAXATION OF TIME FOR FILING FORMS RELATED TO CREATION OR MODIFICATION OF CHARGES UNDER THE COMPANIES ACT, 2013

Under the Companies Fresh Start Scheme 2020, the benefit of waiver of additional fees was not extended to the charge related documents. In view of the above, the central government has decided to introduce a scheme namely "Scheme for relaxation of time for filing forms related to creation or modification of charges under the companies act, 2013" for the purpose of condoning the delay in filing certain forms related to creation/modification of charges.

http://www.mca.gov.in/Ministry/pdf/Circular23_17062020.pdf

4. CLARIFICATION WITH REGARD TO CREATION OF DEPOSIT REPAYMENT RESERVE OF 20% U/S. 73 (2) (C) OF THE COMPANIES ACT 2013 AND TO INVEST OR DEPOSIT 15% OF AMOUNT OF DEBENTURES U/R.18 OF COMPANIES (SHARE CAPITAL AND DEBENTURES) RULES 2014 - COVID-19 - EXTENSION OF TIME

Extension of time limit referred to in Para V and VI General Circular No. 11/2020 dated 24th March 2020 from 30th June 2020 to 30th September 2020.

http://www.mca.gov.in/Ministry/pdf/Circular_25032020.pdf

http://www.mca.gov.in/Ministry/pdf/Circular24_20062020.pdf

Managing Committee Kota Branch 2020-21

- CA Rajnee Mittal, Chairperson
- CA Devendra Kataria, Secretary
- CA Lokesh Maheshwari, Vice Chairman
- CA Tushar Dhingra, Treasurer
- CA Nitu Natani, CPE Chairperson
- CA Nikhil Jain, CICASA Chairman
- CA Deepak Singhal, Executive Member

Bestowed with Blessings of :



Shri Om Birla
H'ble Speaker Loksabha



CA Atul Gupta
President ICAI



CA Devendra Somani
Chairman CIRC of ICAI

Managing Committee 2020-21



CA RAJNEE MITTAL
CHAIRPERSON



CA LOKESH MAHESHWARI
VICE CHAIRMAN



CA DEVENDRA KATARIA
SECRETARY



CA TUSHAR DHINGRA
TREASURER



CA NIKHIL JAIN
CICASA CHAIRMAN



CA NITU NATANI
CPE CHAIRPERSON



CA DEEPAK SINGHAL
EXECUTIVE MEMBER



CA NILESH GUPTA
Ex-OFFICIO MEMBER

Team Updates 2020-21



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CA Mahesh Gupta
Compiler



CA Yogesh Chandak
Member



CA Tushar Dhingra
Member



CA Santosh Gupta
Member