



A Monthly E-Newsletter

Vol 01 Issue 02

July 2020

The Bottom Line

WHAT'S INSIDE

Direct Taxes **2**

Indirect Taxes **3**

Corporate & Allied Laws **4**

CFO Watch **5**

M&A **5**

In the News **6**

Glossary **7**

About Us **8**

KEY METRICS

Indices

BSE SENSEX	34,916	7.68%	▲
NSE NIFTY50	10,302	7.53%	▲
NASDAQ Composite	10,059	5.99%	▲
NIKKEI 225	22,288	1.88%	▲

Currency

USD/INR	75.55	0.08%	▲
EURO/INR	84.86	-1.13%	▼
GBP/INR	93.68	-0.37%	▼
JPY/INR	0.70	0.24%	▲

Note: The month-on-month movement as on June 30, 2020 is represented in percentages
Source: Yahoo Finance, Investing.com



Direct Tax

Notifications/Circulars

E-filing facility soon to be launched for ITAT as well

ITAT will launch e-filing of appeals for providing efficient taxpayer services. The detailed guidelines for use of facility shall be announced once the e-filing portal is launched.

ITAT notification dated June 1, 2020

New rate of indexation for FY 2020-21

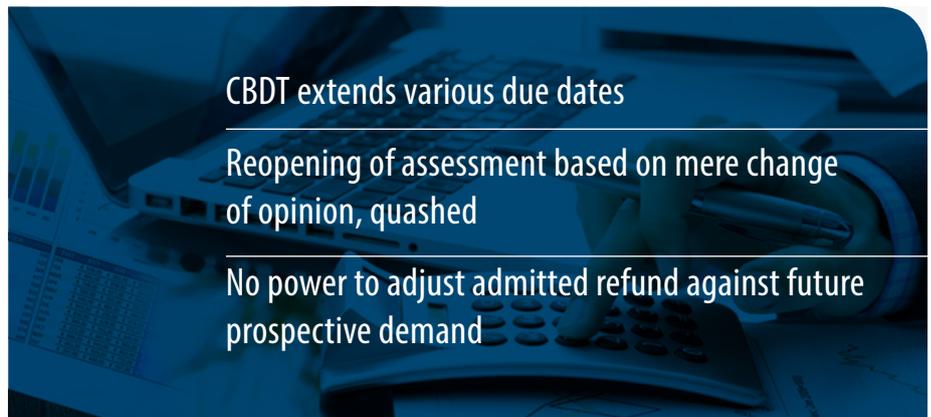
The Cost Inflation Index has been notified as 301 for the FY 2020-21.

Notification No. 32/2020-CBDT dated June 12, 2020

Extension of various timelines due to COVID-19

- Due date for specified compliances falling due between March 20, 2020 to December 31, 2020 extended till March 31, 2021. These include passing of assessment orders, issue of notices, filing of appeal, amongst others
- Due date for filing income tax return for FY 2018-19 has been further extended till July 31, 2020
- TDS and TCS returns filing for Q4 of FY 2019-20 extended till July 31, 2020
- Issuance of TDS certificate for FY 2019-20 extended till August 15, 2020
- Timeline for making investments for FY 2019-20 eligible for deduction under Section 80C to 80GGC extended till July 31, 2020.

Notification No. 35/2020-CBDT and Press Release dated June 24, 2020



CBDT extends various due dates

Reopening of assessment based on mere change of opinion, quashed

No power to adjust admitted refund against future prospective demand

Judicial Rulings

Reopening of assessment based on mere change of opinion quashed

Notice was issued by AO for re-opening of assessment on the issue which was already subject matter of former assessment proceedings to which the assessee appropriately responded. Hence, non-rejection of the explanation of assessee in the assessment order in former proceedings amounts to acceptance of justification given by the assessee. In these circumstances, Court has held that the reasons in support of the notice u/s 148 were based on a mere change of opinion and held the same as without jurisdiction.

Assistant Commissioner of Income-tax v. Marico Ltd. (Supreme Court)

Conversion of limited scrutiny to complete scrutiny without reasonable justification is liable to be quashed

Under CBDT Instruction No.5/2016, a case earmarked for 'Limited Scrutiny' cannot be taken for 'Complete Scrutiny' unless the AO forms a reasonable view that there is a possibility of under-reporting of income. The Court held that, the objective of the instruction is to prevent fishing and roving enquiries and enforce checks and balances

upon the powers of the AO. In the present case, in absence of any strong reason for converting into complete scrutiny, the assessment order was quashed.

Dev Milk Foods Pvt. Ltd. v. Additional CIT (Delhi ITAT)

No power to adjust the admitted refund against future prospective demand

It was held that the department has to grant refund and does not have the right to withhold refund against the future contemplated demand that has not yet arisen.

Vodafone Idea Limited v. Union of India (Mumbai High Court)

Non-inclusion of specific allegation in the penalty notice, not to be invalid

Many Courts have earlier held that the authorities need to specify the allegation in the penalty notice clearly, whether it is furnishing inaccurate particulars or concealment of income. In this case, Court has held that even in absence of specific allegation in the penalty notice, it shall be treated as valid if the assessment order duly specifies the allegation.

Ventura Textiles Ltd. v. CIT (Mumbai High Court)

Indirect Tax

Notifications/Circulars

Conditional waiver of Interest and Late Fee for filing of GSTR-1 and GSTR-3B

Conditional waiver has been provided for delayed filing of GSTR-1 (March to June 2020) and GSTR-3B (February to July 2020). While late fee is fully waived where returns are filed within relaxed due dates as specified in the notifications, interest shall be charged at a lower rate of 9 per cent. However, if the returns are yet not filed within relaxed due dates, then late fee shall be applicable from the original due date of the return and interest shall be charged at 18 per cent. Further, for the period from July 2017 to January 2020, the late fee shall be capped to a maximum of Rs. 500/- if GSTR-3B is filed between July 1 to September 30, 2020. Similar cap has also been provided for returns for the period February to July 2020. There will be no late fee is the tax liability is NIL.

Notifications No. 51, 52 & 53/2020-Central Tax dated June 24, 2020 and 57/2020-Central Tax dated June 30, 2020

General extension for various specified compliances

The general extension for specified compliances provided vide Notification No. 35/2020-Central Tax dated April 3, 2020, has now been further extended from June 30 to August 31, 2020. This includes completion of any proceeding, passing or any order, issuance of notice, filing of appeal, filing of reply amongst others. The extension is applicable for specified compliances due between March 20 and August 29, 2020.

Notification No. 55/2020-Central Tax dated June 27, 2020

Extension of validity for e-way bills

Validity of e-way bills generated till March 24, 2020 with their validity expiring on or after March 20, 2020 has been extended till June 30, 2020.

Notification No. 47/2020-Central Tax dated June 9, 2020

GST on Directors remuneration

The controversy arising out of the Karnataka AAR ruling in the case of M/s Anil Kumar Agrawal has now been put to rest. CBIC has clarified that a whole-time director may or may not be an employee, while an Independent director cannot be an employee. Taxability is to be determined on case to case basis and if the remuneration is subject to TDS under Income Tax as Salary, then GST will not be applicable.

Circular No. 140/10/2020-GST dated June 10, 2020

Court Cases/Advance Rulings

ITC on development of SIPC

Since the project is for construction of an immovable property, any input with respect to goods, services or works contract service used for such a project, will be ineligible credit under section 17(5) of the CGST Act. The ineligible credits would also include, amongst others, project management consultancy and marketing consultancy services.

M/s Deendayal Port Trust (AAR Gujarat)

Time limit for transitional credit

The apex Court has put a stay on the decision of the Delhi High court wherein it was held that the time limit for availing transitional credit under Rule 117 of the CGST Rules was not mandatory. Further, the

Conditional waiver of Interest and Late Fee for filing of GSTR-1 and GSTR-3B

Controversy relating to GST on Directors remuneration put to rest



Department had also been directed by the Delhi High Court to allow manual filing of TRAN-1 and to reopen online filing of the same till June 30, 2020.

Union of India v Brand Equity Treaties Limited & others (Supreme Court of India)

Place of supply in case of ex-factory sales

In case of ex-factory sales where goods are made available by the supplier to the recipient at the factory gate but are further transported by the recipient to another State, the movement of goods terminates in that other State. Consequently, the place of supply falls in another State and transaction shall be Inter-State supply chargeable to IGST.

M/s Penna Cement Industries Limited (AAR Karnataka)

CORPORATE & ALLIED LAWS

Relaxations under Companies Act, 2013

- Board Meeting for approval of the Annual Financial Statements, Board Report or matters relating to Amalgamation, Merger, Demerger, Acquisition and Takeover can be held through VC or OAVM until September 30, 2020.

Notification No. 304-MCA dated June 23, 2020

- Further extension for holding Extra Ordinary General Meetings through VC or OAVM or through postal ballot until September 30, 2020.

General Circular No. 22/2020-MCA dated June 15, 2020

- Timeline for any person desirous of being included in the databank of Independent Directors has been extended till September 30, 2020

Notification No. 305-MCA dated June 23, 2020

- Further extension from April 30 to September 30, 2020 for creation of Deposit Repayment Reserve of 20% of deposits maturing during the financial year 2020-21 and requirement to invest 15% amount of debentures maturing in specified methods of investments or deposits.

General Circular No. 24/2020-MCA dated June 19, 2020

- **Scheme for relaxation of time for filing forms related to creation or modification of charges** is introduced for condoning delay in filing of specified forms related to creation and modification of charges.

General Circular No. 23/2020-MCA dated June 17, 2020

MSME Sector changes

Classification for MSME's based on dual criteria of investment and turnover has been introduced. If an enterprise crosses ceiling limit in either investment or turnover, it shall cease to be categorized under present classification and shall be placed in the higher classification.

Gazette Notification S.O. 2119 (E) dated June 26, 2020

Measures under IBC

Suspension of initiation of application under CIRP for any defaults arising between March 25 to September 25, 2020. Further, no application shall be ever valid if filed at any future date in relation to the said period.

*Ministry of Law and Justice
Ordinance No. 9/2020 dated June 5, 2020*

Relaxations issued by MCA in lieu of COVID-19

Dual criteria for classification as MSME

No initiation of application under CIRP for defaults during specified period



CFO WATCH

Listed companies can now submit their financial results for quarter/half-year/year ending March 31, 2020 till July 31, 2020

CII believes that sustained reform momentum can help drive new investments in India

SEBI extends deadline for listed entities

Considering ongoing pandemic, lockdowns and operational challenges being faced by corporates, SEBI has further extended the timeline for submission of financial results for the quarter/half year/financial year ending March 31, 2020 by another one month to July 31, 2020.

CII suggests key areas to improve ease of doing business in India

To help India achieve self-reliance status, CII has identified key measures for improving ease of doing business. Among various suggestions made, some were related to MSMEs for exemption from approvals and inspection for three years under state laws and self-certification route for approvals to MSMEs with good track record. Their report suggested implementation of online single window system to simplify property registrations and acquisition of land, expediting compliance of labour regulations and synchronized joint inspections. Other suggestions were for virtual court proceedings, e-filings and work from home to speed up the court deliberations, focus on Alternate Dispute Resolution to promote out of court settlements, increased share of railways and waterways in transport, along with improvement in their first mile and last mile connectivity.

MERGERS & ACQUISITIONS

Foundation for valuation and diligence may be tested as stakeholders realize that future may no longer reflect the past

COVID Impact on M&A Due Diligence

The current COVID-19 pandemic is not just a health crisis but an economic crisis as well. It has clearly changed businesses and environments they operate in, which also presents a challenge for mergers and acquisitions. Reliance on historical performance and business projections which are foundation for valuation and diligence may be tested as stakeholders realize that the future may no longer reflect past. In our opinion, in post-COVID scenario, diligence exercise must be conducted in context of the impact of COVID-19 along with Management's response to the crisis.

While time and manner of performing diligence are affected, some of the key issues that must be considered are:

- Compliance with laws and regulations relating to COVID-19 and participation in any Government Programs for financial aid or any other assistance
- Accounting treatment of such financial aid or assistance received under any rescue program
- Short term and long-term impact on revenue based on Management's assessment and plan of action
- Normalized profitability going forward in light of recalibrated revenues and cost cutting measures
- Working capital requirements keeping in mind adequate allowance for bad debts, any non-moving inventories from lockdown and respective provisions for wastage/spoilage etc.
- Access to short-term and long-term financing arrangements for business continuity
- Impact on supply chain, dependence on suppliers, availability and access to alternatives
- Review of key contracts entered by the company with respect to Force Majeure provisions, any breach and whether the breach is caused due to COVID-19
- Business continuity plans and arrangements keeping in view employee safety, employee policy for remote working, status of IT infrastructure for remote working and associated costs
- Cybersecurity and data privacy practices

The due diligence in the current business scenario will require robust procedures and careful drafting of transaction related documents for adequate protection clauses for both buyer and seller, structuring earn-outs, etc. This coupled with the restriction of onsite diligence and more reliance on digital data rooms will have a lasting impact on how diligences are done in future.

IN THE NEWS



Webinars

On the 11th of June, Ajay Sethi, Managing Partner, was invited to be a speaker on a webinar organized by the Law Society, London on **‘The Challenges of COVID-19 – A Compare and Contrast between India and the UK’** where he spoke about the Indian economic situation and outlook for the Indian Economy.

On the 11th and 12th of June, we conducted 2 webinars in Nihongo that were co-hosted with SCS Global. One was for the Japan India Association and the second was for the Yokohama India Centre on **‘Doing Business in India in Times of COVID-19’** where we delved into the taxation and financial regulatory related challenges facing Japanese companies operating in India.

D Ramprasad, Partner and Practice Head Bangalore, spoke at a live interview on the 27th of June with CA Raghukumar in Bangalore on the **‘Mindset of Businesses’** and the realities of the current business situation.

Articles by our Partners

Taxsutra Eye Share: Demystifying Applicability of Sec. 56(2)(viib) on Preference Shares – June 4th

Author: Bikramjit Singh Bedi, Partner, Taxation and Jyoti Gupta, Manager, Taxation

The article extensively discuss about the applicability of Sec.56(2) (viib) on issuance of preference shares and the valuation methodology under Rule 11UA.

India will take 10 years to become more self-reliant

– June 27th

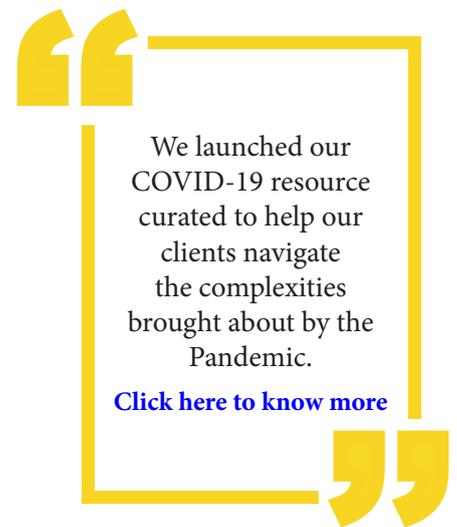
Interview with Himanshu Srivastava, Partner, Business Advisory Services

In this interview, Himanshu looks at the manufacturing potential of India and what it needs, to reduce its dependence on external imports

Logistics Companies in the Post Lockdown World – June 29th

Author: Prateet Mittal, Partner, Assurance and KP Sundriyal, Senior Manager, Assurance

In this article Prateet breaks down the logistics space and the challenges that logistics players will need to overcome over the next few months



We launched our COVID-19 resource curated to help our clients navigate the complexities brought about by the Pandemic.

[Click here to know more](#)

GLOSSARY



AAR

Authority for Advance Ruling

AO

Assessing Officer

CBDT

Central Board of Direct Taxes

CBIC

Central Board of Indirect Taxes and Customs

CGST

Central Goods and Service Tax

CGST Act

Central Goods and Service Tax Act, 2017

CGST Rules

Central Goods and Service Tax Rules, 2017

CII

Confederation of Indian Industry

CIRP

Corporate Insolvency Resolution Process

FY

Financial Year

GST

Goods and Services Tax

IBC

Insolvency and Bankruptcy Code, 2016

IGST

Integrated Goods and Service Tax

ITAT

Income Tax Appellate Tribunal

ITC

Input Tax Credit

ITR

Income Tax Return

M & A

Mergers and Acquisitions

MCA

Ministry of Corporate Affairs

MSME

Micro, Small and Medium Enterprises

OAVM

Other Audio and Visual Means

SEBI

Securities and Exchange Board of India

SGST

State Goods and Services Tax

SIPC

Smart Industrial Port City

TCS

Tax Collected at Source

TDS

Tax Deducted at Source

VC

Video Conference



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ABOUT US

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