



## A Monthly E-Newsletter

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October 2020

# The Bottom Line

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## KEY METRICS

### Indices

BSE SENSEX	38,068	-1.45%	▼
NSE NIFTY50	11,248	-1.23%	▼
NASDAQ Composite	11,168	-5.16%	▼
NIKKEI 225	23,185	0.20%	▲

### Currency

USD/INR	73.56	-0.42%	▼
EURO/INR	86.20	1.42%	▲
GBP/INR	95.03	2.97%	▲
JPY/INR	0.70	-0.95%	▼

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



# DIRECT TAX

## Notifications/Circulars

### Faceless Appeals Scheme launched

In line with its transparent taxation initiative, CBDT has notified a Scheme to conduct the appeals process in a faceless manner. With use of data analytics and AI, the faceless regime shall electronically allocate the cases, communicate notices, hold hearings and finally, communicate the appellate order. The Scheme shall presently apply to all appeals except those involving serious frauds, major tax evasion, sensitive & search matters, international tax and black money.

*Notification No. 77/2020/F.No. 370142/33/2020-TPL and Press release by CBDT dated September 25, 2020*

### Due date for filing ITR for AY 2019-20 further extended

The due date for filing belated ITR for AY 2019-20 which was earlier extended upto September 30, 2020, has now been further extended upto November 30, 2020.

*Order F. No. 225/150/2020 ITA-II dated September 30, 2020*

### Guidelines issued for TDS on E-commerce operators and TCS on sale of goods

CBDT has released guidelines/clarifications on applicability of TDS on E-commerce operators u/s 194O and TCS on sale of goods u/s 206C(1H) that come into play from October 1, 2020. The guidelines/clarifications deal with applicability of TDS/TCS on transactions carried through various exchanges, payment gateways, insurance agent or insurance aggregators, computation of threshold for FY 2020-21, sale of a motor vehicle, adjustment for sale return, discount or indirect taxes

and fuel supplied to non-resident airlines etc.

*Circular no. 17/2020-CBDT dated September 29, 2020 and Press Release dated September 30, 2020*

## Judicial Rulings

### Interest cost cannot be disallowed for genuine borrowings

Once the genuineness of the borrowing is established, it is not within the powers of the AO to disallow the interest deduction on the ground that the rate of interest is unreasonably high or that the assessee had himself charged a lower rate of interest on the money which it has advanced. The main test for allowability of interest is that the borrowings are genuine and for business purpose.

*DLF Limited (ITAT Delhi)*

### Only actual expenses incurred towards earning exempt income can be disallowed

In terms of section 14A, only the expenditure which is proved to be incurred in relation to earning of tax free income could be disallowed.

*Celebrity Fashion Ltd (Madras High Court)*

### Penalty for concealment not attracted on estimated disallowances

Penalty for concealment of income is not attracted where the disallowance is stemmed on a mere estimation. The revenue must establish a positive act of concealment on the part of the assessee.

*Ehara Engineering Pvt. Ltd (ITAT Mumbai)*

### CBDT notifies Faceless Appeal Scheme, 2020

### Guidelines issued for TDS on E-commerce operators and TCS on sale of goods

### Selection of comparable for transfer pricing is to be done on year-to-year basis



### Selection of comparable is to be done on year-to-year basis

In determining the Arm's Length Price, selection of comparable and benchmarking analysis must be undertaken on a year-to-year basis. Comparability in one year cannot automatically extend to future years as well.

*Elcome Technologies (P.) Ltd. (ITAT Mumbai)*

# INDIRECT TAX

## Notifications/Circulars

E-invoicing comes into effect from October 1, 2020

Transport recovery from employees not taxable

MEIS withdrawn effective January 01, 2021

### Due date for filing GSTR-9 and GSTR-9C extended

The due date for filing the annual return in Form GSTR-9 and Audited Reconciliation Statement GSTR-9C for financial year 2018-19 has been extended from September 30 to October 31, 2020.

*Notification No. 69/2020-Central Tax dated September 30, 2020*

### E-invoicing provisions

E-invoicing comes into effect from October 1, 2020. Key provisions notified are:

- E-invoicing shall apply for all B2B supplies and exports. Further, the threshold turnover of INR 5 billion shall be applicable based on aggregate turnover in any preceding financial year starting from 2017-18 onwards.

*Notification No. 70/2020-Central Tax dated September 30, 2020*

- Requirement for “Dynamic QR Code” on B2C supplies extended from October 1 to December 1, 2020.

*Notification No. 71/2020-Central Tax dated September 30, 2020*

- Where e-invoicing is applicable, physical copy of invoice need not be carried

during movement of goods and QR code having IRN can be produced electronically before the proper officer for verification.

*Notification No. 72/2020-Central Tax dated September 30, 2020*

### Debit and Credit Notes delinked from invoices

Single debit/credit note may now be issued in respect of multiple invoices. Corresponding changes made in the refund utilities also.

*GSTN updates*

### MEIS benefits

The MEIS has been withdrawn with effect from January 01, 2021. Further, any person who has not made any exports for a period of one year preceding September 1, 2020 or any new IEC registration obtained on or after this date, shall not be entitled to any benefit under the Scheme.

*Notification No. 30/2015-2020-DGFT dated September 1, 2020*

## Court Cases/Advance Rulings

### Taxability of penal interest charged on loans

Penal interest charged on loans shall not be taxable as “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”. It is part of interest and will be similarly exempt.

*M/s Bajaj Finance Limited (AAAR Maharashtra)*

### Recovery from employees towards transport provided by employer

In case a nominal amount is charged from the employees for transportation service, such supply shall not be taxable under GST. It shall be in nature of employee-employer relationship and will not be a supply covered under Schedule III of CGST Act. However, ITC only to the extent of cost borne, shall be available to the employer and not for the amount that is recovered from the employees.

*M/s Tata Motors Limited (AAR Maharashtra)*

### Period of limitation for filing appeal

The period of limitation for filing appeal against order rejecting refund claim shall start from the date when the said order is uploaded on the GST portal. Date of providing physical copy of the order to the appellant shall not be considered for determining period of limitation.

*Gujarat State Petronet Limited v. Union of India (Gujarat High Court)*

### Order rejecting refund claim set aside

An order was passed rejecting refund claim of the assessee. Objections to the SCN had been submitted by the assessee. No detailed reply was given to such objections by the authorities. The said order regarded as a “non-speaking order” and set aside.

*M/s Jay Jay Mills (India) Pvt Ltd v. The State Tax Officer, Tirupur (Madras High Court)*

# CORPORATE & ALLIED LAWS

## Introduction of Companies (Amendment) Act 2020

Companies (Amendment) Act 2020 receives President's assent on September 28, 2020. Major highlights are:

- Decriminalization of the Companies Act and reduction in penalties
- Exclusion of companies issuing specified classes of securities from the definition of a "listed company"
- Benches of the National Company Law Appellate Tribunal in New Delhi to be set up
- Allow certain classes of public companies to list classes of securities in foreign jurisdictions
- Relaxations in formation of CSR committee for companies having spending obligations upto INR 5 million.

- Permitting independent directors and non-executive directors to receive remuneration in case of a company having no profits or inadequate profits.

*Ministry of Law and Justice S. No. 54 dated September 28, 2020*

### Extension in VC/OAVM facilities for EGM's

As a further relief, companies can conduct their EGM's through VC or OAVM or transact items through postal ballot upto December 31, 2020.

*General Circular No. 33/2020 dated September 28, 2020*

### Extension of Settlement Schemes

Companies Fresh Start Scheme, 2020 and LLP Settlement Scheme, 2020 are extended upto December 31, 2020. This will enable the

companies/LLP's to complete their pending filings with MCA, including annual filings, without any higher additional fee.

*General Circular No. 30/2020 and 31/2020 dated September 28, 2020*

Decriminalization and reduction of penalties vide Companies (Amendment) Act, 2020

Extension of specified Settlement Schemes upto December 31, 2020



## CFO WATCH

### Labour law reforms notified

#### “Positive Pay System” to be introduced by RBI for re-confirmation of cheque payments

#### Three Labour Codes notified after President’s assent

The Central Government has notified three labour codes viz. Code on Social Security 2020, Occupational Safety, Health and Working Condition Code 2020, and Industrial Relation Code 2020. The existing laws which now stand merged with these codes are the Factories Act, the Industrial Disputes Act, the Trade Union Act, the Mines Act, the EPF Act, the Employees State Insurance Corporation Act, the Minimum Wage act, and Maternity Benefit Act, among others. Various provisions of the existing labour regulations have been rationalized along with easier retrenchment norms, flexibility in hiring contract workers, equal social security benefits for fixed-term and permanent staff and social security cover for gig and migrant workers. Relaxation has also been provided to smaller factories from labour laws. The reforms are aimed at reducing compliance burden on employers. The government is yet to take a decision on when to make the Codes effective.

#### RBI to introduce ‘Positive Pay System’ to secure cheque payments

Keeping in view cheque related frauds, RBI has decided to introduce “Positive Pay System” from January 01, 2021. Under this system, issuer of the cheque for more than Rs. 50,000 will be required to submit specified details electronically. The specified details include cheque date, beneficiary name, payee, amount, amongst others.

## MERGERS & ACQUISITIONS

### Capturing A Half-Year update of M&A in 2020

Current financial year started on a worst note for M&A in India as well as globally. With most of countries under a strict lockdown, buyers and sellers were in grip of uncertainty. Signs could not have been more ominous for deal making.

Aggregate M&A and PE deal volumes in April 2020 reported a 37% and 22% fall respectively compared to deal volumes in April 2019 and March 2020, respectively. However, deal volumes in May 2020 (excluding of four PE transactions in Jio), witnessed a 16% and 25% growth compared with May 2019 and April 2020, respectively.

Looking at the trends and market insights, we believe large corporates with excess cash will be on the lookout for reasonably priced deals to possibly expand and/or diversify. Private equity fund houses with deep pockets, may join hands with business enterprises to carry out acquisitions in the days ahead.

“Aqui-hiring”, a new emerging trend in Indian startup eco-system where startups are primarily being acquired for their talent, is likely to pick up. Significant traction could also be expected from Indian companies vying for an overseas product, technology, and customer acquisition.

Market have observed a historical low in valuations of global businesses leading to a scenario where Indian IT companies are exploring acquisition opportunity outside India in cloud, data and business platforms space.

Considering that a large proportion of India is without health insurance of any kind, a crisis of this scale and nature is likely to underline the gravity of the need for obtaining health insurance, thus a significant uptick in the insurance sector and consequently increased M&A activity in this sector may be observed.

While it is difficult to say that worst is behind us as far as COVID-19 is concerned, M&A activities have started showing green shoots. Crisis induced necessity, reasonable valuation expectations and value buying is likely to support it further with every passing month.



# IN THE NEWS



## Webinars

### Considering Business in India

- September 3, 2020

*Speakers:* Satoshi Noguchi, SCS Global and Kazuharo Kono, Advisor, Corporate Catalyst India

Entirely in Nihongo, this webinar was held in collaboration with Yokohama India Centre, Japan and JETRO as a primer for Japanese companies looking to understand the Indian opportunity.

### Key Considerations for Starting Business in India

- September 10, 2020

*Speakers:* Satoshi Noguchi, SCS Global, Kazuharo Kono, Advisor, Corporate Catalyst India and Rajesh Pandya, Managing Director, KAI

Done in collaboration with Yokohama India Centre, Japan and JETRO, this was also in Nihongo and delved deeper into the specifics of doing business in India.

### Funding Raising and GST - All that you need to know

- September 25, 2020

*Speaker:* Basavaraj Nishani, Associate Director, Accounting & Business Support and Indirect Tax

Invited by IKP Knowledge Park, Bangalore, the topic covered was “Way forward for Startups under GST”.

## Articles by our Partners

### 5 Key Changes Expected in GST

- September 1, 2020

*Author:* Sundeep Gupta, Partner, Accounting & Business Support, Indirect Tax

Published in Taxsutra’s GST Portal, this article covered 5 key issues that still need to be addressed even after 3 years of GST implementation.

### The Art of Video Conferencing

- September 2, 2020

*Author:* Ajay Sethi, Managing Partner

Published in Taxmann, this article emphasized on how to make video conferencing a powerful business tool.

### Responsible SMP Pacesetters

- September 11, 2020

*Author:* Himanshu Srivastava, Partner, Business Advisory Services & Practice Head, Ahmedabad

Published in ACCA, Himanshu was interviewed for their report that looked at CSR activities by small and medium practices worldwide.

### Basis of Going Concern Assumption

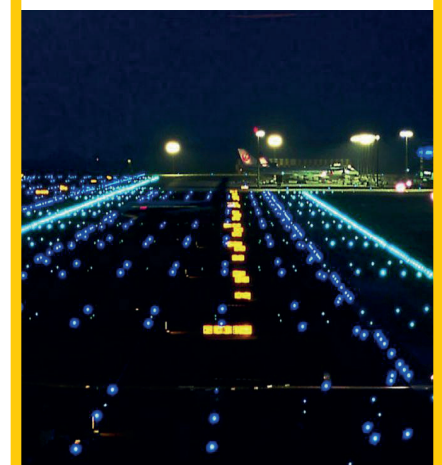
- September 28, 2020

*Author:* Sivaraman V, Senior Manager, Assurance

Published in Taxsutra, this article

covered the concept and procedures around the Going Concern Assumption.

We have launched our ‘Road to Recovery’ Series of panel discussions covering 5 major issues that companies will need to consider for re-strategizing their game plans. Each panel will have industry stalwarts discussing strategies, tactics, and future plans.



# GLOSSARY



## AAR

Authority for Advance Ruling

## AAAR

Appellate Authority for Advance Ruling

## AI

Artificial Intelligence

## AO

Assessing Officer

## AY

Assessment Year

## CBDT

Central Board of Direct Taxes

## CGST Act

Central Goods and Services Tax Act, 2017

## COVID-19

Coronavirus Disease 2019

## CSR

Corporate Social Responsibility

## CSR Committee

Corporate Social Responsibility Committee

## EGM

Extra- Ordinary General Meeting

## FY

Financial Year

## GST

Goods and Services Tax

## ITC

Input Tax Credit

## ITAT

Income Tax Appellant Tribunal

## ITR

Income Tax Return

## LLP

Limited Liability Partnership

## M&A

Mergers and Acquisitions

## MCA

Ministry of Corporate Affairs

## MEIS

The Merchandise Exports from India Scheme

## OAVM

Other Audio-Visual Means

## PE

Private Equity

## RBI

Reserve Bank of India

## SCN

Show Cause Notice

## TCS

Tax collected at Source

## TDS

Tax deducted at Source

## u/s

Under section

## VC

Video Conference



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