



A Monthly E-Newsletter

Vol 02 Issue 05

May 2021

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	48,782	-1.47%	▼
NSE NIFTY50	14,631	-0.41%	▼
NASDAQ Composite	13,963	5.40%	▲
NIKKEI 225	28,813	-1.25%	▼

Currency

USD/INR	74.06	-1.26%	▼
EURO/INR	89.01	-3.78%	▼
GBP/INR	102.32	-1.54%	▼
JPY/INR	0.677	-2.57%	▼

Note: The month-on-month movement as on April 30, 2021 is represented in percentages
Source: Yahoo Finance, Investing.com



DIRECT TAX

Notifications/Circulars

Timelines further extended in wake of pandemic

In view of sudden surge of COVID-19 cases, due dates have been extended. These are:

- Passing order of assessment, reassessment and u/s 144C pursuant to directions of DRP, issue of notice u/s 148, sending intimation for processing of Equalisation Levy and payment of tax under VsV Act, 2020 expiring on April 30, 2021 - extended till June 30, 2021
- Filing appeal before CIT(A), objections to DRP u/s 144C, ITR in response to section 148, belated/revised returns for AY 2020-21 - extended till May 31, 2021.

Notification No. 38 and 39/2021-CBDT dated April 27, 2021 and Circular No. 08/2021 dated April 30, 2021

Changes in Master File and CbCR Rules introduced w.e.f April 1, 2021

Consolidated group revenue threshold to determine reporting eligibility for multinational enterprises groups for applicability of country-by-country report increased from Rs 5,500 to 6,400 crore. Further, it has been clarified that, once an entity has been designated to file a Master File on behalf of an international group, such designation would be for Indian as well as foreign entities.

Notification No. 31/2021 - CBDT dated April 5, 2021

Judicial Rulings

Mandatory vacation of stay on expiry of 365 days u/s 254(2A) held as unconstitutional

The Hon'ble SC held that ITAT has the power to grant extension of stay beyond 365 days in deserving cases. It further observed that the third proviso to Section 254(2A) resulting in automatic vacation of a stay upon expiry of 365 days, even if delay in disposing of appeal is not attributable to assessee, violates Article 14 of the Constitution, is both arbitrary and discriminatory and liable to be struck down

Pepsi Foods Ltd. [2021] (SC)

Where ALP of international transaction is accepted by TP Officer, AO cannot make disallowance u/s 40A(2)

ITAT deletes TP adjustment u/s 40A(2) in respect of professional fee paid to associate enterprise by assessee. Held that where transaction is accepted by the TP Officer, AO has no jurisdiction to invoke the provisions of section 40A(2) for such transaction.

Lifestyle International (P) Limited [TS-185-ITAT-2021(Bang)-TP]

Various timelines extended in wake of pandemic

Master File and CbCR Rules amended

MFN clause to India-Netherlands DTAA applicable on subsequent OECD memberships

MFN clause to India-Netherlands DTAA applicable on subsequent OECD memberships

The MFN clause from DTAA's executed with Slovenia, Lithuania, and Columbia provide for a beneficial withholding rate of 5% on dividend payments. However, the authorities refused such lower rate on the contention that these countries were not OECD member countries when the DTAA was executed. HC has clarified that the membership status as on date of the application for beneficial rate is to be seen and not at the time when subject DTAA was executed.

Concentrix Services Netherlands B.V. and Optum Global Solutions International BV [TS-286-HC-2021(DEL)]



INDIRECT TAX

Notifications/Circulars

Filing of return through EVC

Companies shall be allowed to file GSTR-3B and GSTR-1 returns through EVC, during the period April 27 to May 31, 2021.

Notification No. 07/2021-Central Tax dated April 27, 2021

Court Cases/Advance Rulings

Parallel proceedings under GST Act

Where an officer of Central Tax Authority initiates an action against a taxpayer, who is administratively assigned to State Tax Authority, then further investigation has to be undertaken by the Central Authority only and the same cannot be transferred to State Authority.

M/s Anurag Suri v The Director General of Goods and Services Tax Intelligence and Others (Orissa High Court)

Scope of inquiry for goods in transit

Where the carrier of goods is having all the document prescribed under the GST law and goods in question are in conformity with the said documents, then the scope of inquiry under Section 63 of the CGST Act cannot be extended to include checking genuineness of the purchase and corresponding input tax credit as it would impede free flow of trade.

M/s H.R. Enterprises and Gurneet Singh v The Commissioner of State Tax, RGST, Jaipur and Others (Rajasthan High Court)

Availment of ITC on debit note

Irrespective of the amendment in Section 16(4) of the CGST Act as brought vide Finance Act, 2020, a debit note is always issued in relation to a change in value of a particular invoice therefore the input tax credit on such debit note can only be availed on or before the due date of filing of September month GSTR-3B return, following the end of financial year to which such invoice relates.

M/s I-Tech Plast India Pvt Ltd (Karnataka AAR)

Interest on delayed payment

As the applicant has delayed the payment for the purchase of goods from the foreign holding company ('FHC') therefore, the FHC has tolerated the act of receiving payment after a lapse of a stipulated period and accordingly payment of interest by the applicant will be covered under supply of services as per Entry No. 5(e) of the Schedule II of the CGST Act. Tax to be payable by the applicant under reverse charge on these services.

M/s Enpay Transformer Components India Pvt Ltd (Gujarat AAR)

Interest on delayed payment paid to foreign company is liable for reverse charge

ITC on debit note cannot be availed beyond due date from end of FY

SCN must contain valid details and should not be arbitrary

Issue of proper SCN

The SCN that has been issued against the petitioner does not even contains the basic details such as the date and timing of personal hearing. Further, there are several mistakes clearly evident in the SCN. The department has been directed to issue fresh SCN.

M/s Tarmal Industrial Supply Company v The State Tax Officer and others (Madras High Court)



CORPORATE & ALLIED LAWS

Notifications

Utilization of CSR funds for setting up makeshift hospitals and temporary COVID Care facilities

Any expenditure incurred on setting up makeshift hospitals and temporary COVID Care facilities shall be eligible CSR activity under promotion of healthcare, including preventive health care and disaster management.

General Circular No. 05/2021/MCA/ dated April 22, 2021

Insolvency and Bankruptcy (Prepackaged Insolvency Resolution Process) Rules, 2021

Ministry has notified Insolvency and Bankruptcy (Prepackaged Insolvency Resolution Process) Rules, 2021 with effect from April 09, 2021. Any corporate applicant desirous of making an application under the stated process shall make an application in the specified form accompanied with affidavit, documents or records as in electronic form, along with a

CSR funds can be utilized for temporary COVID care facilities

Prepackaged Insolvency Resolution Process Rules, 2021 notified

fee of Rs 15,000/-. The application shall be filed in physical form only where such electronic facility is not available.

Notification No. G.S.R. – 205(E)/ MCA/dated April19, 2021

Reserve Bank of India

In view of the continuing uncertainty caused by the ongoing second wave of COVID-19 and with a view that banks remain resilient and proactively raise and conserve capital, norms for dividend payment on equity shares have been revised. Commercial Banks can pay dividend for the financial year ended March 31, 2021 subject to the quantum of dividend being not more than fifty

per cent of the amount determined as per the dividend payout ratio

Press Release: 23/21-22/RBI/dated April 22, 2021

Relaxation from import duties for oxygen concentrators

Government has permitted import of oxygen concentrators for personal use through post, courier or e-commerce portals in the list of exempted categories where customs clearance is sought as “gifts”. This will be applicable till July 31, 2021 and no import duties shall be leviable

Notification No. 1599/21-22/RBI/ dated April 22, 2021



CFO WATCH

SEBI relaxes timelines for listed companies to announce quarterly results

New Labour Codes deferred

Foreign Trade Policy 2015-20 extended till September 2021

SEBI relaxes compliance under LODR Regulations, 2015

In view of the rising number of cases and the second wave of the pandemic, SEBI has extended deadlines for listed companies for announcement of their financial results. For March 2021, companies can now announce their quarterly results by June 30 instead of by May 15, 2021. Further, audited financials may also be filed by the extended time upto June 30, 2021.

Government defers implementation of new Labour Codes

Government has deferred implementation of new Labour Codes citing that States are yet to finalize the rules. Delay in implementation of the new Codes will give companies more time to work on their salary structures and human resource policies.

Extension of Foreign Trade Policy 2015-20

Existing Foreign Trade Policy 2015-20 valid up to March 31, 2021 is now extended up to September 30, 2021. The extension has been notified by Director General of Foreign Trade amidst the raging pandemic.

MERGERS & ACQUISITIONS

Growing uncertainty due to COVID second wave may slow down investment activity

With the second wave of COVID-19, India is now in the grip of a public health emergency. Lockdowns in several States are expected to impact consumer spending and investments and thus corporate earnings and valuations. Given the situation, many M&A transactions too seem to have moved into the slow lane. Some of the big transactions impacted include sale of Lavasa Corporation, assets of Reliance Capital and Reliance Naval. Additionally, the second wave of COVID has again disrupted the IBC process which was reinstated only in March 2021. Lenders expect the slow-down in economic activity to adversely affect the mid-sized and smaller companies who may face cash flow problems and default. The market is thus expecting a further suspension of the IBC process to give an opportunity to companies to restructure their finances to cope with the pandemic.

On the other hand, there are many startups and new business ventures that have gained momentum given the change in work-from-home dynamics. These mainly include businesses involved in online education, upskilling, home services, food delivery and enterprise solutions to enable off-site work. This is evidenced by the USD 190 million fund raised by Urban Company, acquisition of Aakash Educational Services by Byju for a speculated USD 1 billion, USD 120 million fund raised by UpGrad and a DRHP filed by Zomato to raise over USD 1 billion during the last month alone. With the peak of second wave not yet certain, we believe that investors are expected to take cautious bets on new transactions for atleast coming few months.



IN THE NEWS



Webinars for clients

The New Labour Codes: Impact on Manufacturers -
April 22, 2021

Speaker: Himanshu Srivastava, Partner, Business Advisory Services
While providing a synopsis of the new Labour Codes and their impact on manufacturing companies in India, this webinar also covered the key issues that manufacturing organisations would need to consider to re-align their operations and bring them in line with the new Codes.

The New Labour Codes: Impact on Services Sector -
April 29, 2021

Speaker: Himanshu Srivastava, Partner, Business Advisory Services
The impact of the new Labour Codes on establishments in the services space along with the compliance requirements and penalties, concluding with a checklist of actions that all establishments can use to verify whether they are

adequately prepared for the new Labour Codes.

Other Webinars

Recent amendments in Schedule III of Companies Act, 2013 -
April 23, 2021

Speakers: D Ramprasad, Practice Head, Bangalore, Vinay KS, Executive Partner, Assurance
BCIC Karnataka invited D Ramprasad and Vinay to speak about the recent amendments in Schedule III of the Companies Act, 2013, what they mean for corporates in India and their impact. The discussion delved into disclosures of shareholders, trade payables, trade receivables, capital work in progress, borrowings, ratios etc.

Published Articles & Quotes by our Partners

Ind-As: Is deferment of new accounting norms saving investors or harming them? -
April 8, 2021

Author: Keyur Dave, Practice Head Mumbai

The article was published in ETCFO, where Keyur shared his views on the deferment of new accounting norms and their likely impact on the banking sector and the economy at large.

Covid lockdowns: India Inc seeks more time from SEBI to file Q4, FY21 results -
April 23, 2021

Quote: Keyur Dave, Practice Head Mumbai

In this article by ETCFO discussing the impact of the current set of lockdowns on corporate compliances and quoted Keyur's thoughts in favor of a postponement.

Story by M&A Worldwide - Celebrating our Indian Partner ASA's 30 years anniversary

Quote: Catarina Pimentel

An interview of Ajay Sethi covering the story of ASA's journey by Catarina Pimentel of M&A Worldwide.

GLOSSARY



AAR

Authority for Advance Ruling

ALP

Arm Length Price

AO

Assessing Officer

AY

Assessment Year

Bn

Billion

CbCR

Country by Country Reporting

CBDT

Central Board of Direct Taxes

CGST Act

Central Goods & Services Tax Act, 2017

COVID

Coronavirus Disease

CSR

Corporate Social Responsibility

DRHP

Draft Red Herring Prospectus

DRP

Dispute Resolution Panel

DTAA

Double Taxation Avoidance Agreement

EVC

Electronic Verification Code

FY

Financial Year

GST

Goods & Services Tax

HC

High Court

IBC

Insolvency and Bankruptcy Code

ITAT

Income Tax Appellate Tribunal

ITC

Input Tax Credit

ITR

Income Tax Return

LODR

Listing Obligations and Disclosure Requirements

M&A

Mergers and Acquisitions

MFN

Most Favoured Nation

Mn

Million

OECD

Organisation for Economic Co-operation and Development

SC

Supreme Court

SCN

Show Cause Notice

SEBI

The Securities and Exchange Board of India

TP

Transfer Pricing

u/s

Under section

VsV

Vivad se Vishwas

w.e.f

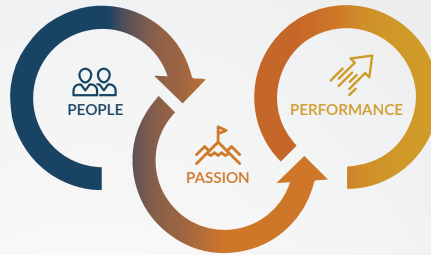
With effect from



We value your feedback. Please send us your comments and suggestions at editorial@asa.in

ABOUT US

A full services firm of corporate strategists, accountants, tax advisory experts and financial and marketing analysts.



SERVICES

- Accounting and Business Support
- Assurance
- Business Advisory
- Digital Automation and Transformation
- Taxation
- Transaction Advisory

Well structured teams with domain specialization are guided by leaders who possess expertise and experience and are present PAN India to ensure excellent client service.



www.asa.in

700 in-house PROFESSIONALS	6000 CLIENTS
60 + LOCATIONS	32 ADVISORS AND DIRECTORS
30 YEARS OF EXPERIENCE	

DIRECTOR LED OFFICES IN 8 KEY LOCATIONS ACROSS INDIA

18 INDIAN LOCATIONS AND 6 FOREIGN DESKS COMBINED WITH INTERNATIONAL AFFILIATIONS ENSURES GLOBAL STANDARDS WITH REGIONAL EXPERTISE



Disclaimer: This publication has been jointly prepared by ASA & Associates LLP and ASA Corporate Catalyst India Pvt Ltd. We have taken all steps to ensure that the information in this document has been obtained from reliable sources and is accurate. However, this document is not intended to give legal, tax, accounting or other professional guidance. We recommend appropriate advice be taken prior to initiating action on specific issues.



ASA Corporate Catalyst India

New Delhi (Corporate Office)

Aurobindo Tower
81/1 Third Floor Adchini
Aurobindo Marg
New Delhi 110 017 INDIA
T +91 11 4100 9999

Ahmedabad

306 - B, Pinnacle Business Park
Corporate Road, Prahlad Nagar
Ahmedabad, 380 015 INDIA
T + 91 79 4891 5409

Bengaluru

Level - 2, Park Square
No.150, 36th Cross
Jayanagar 7th Block
Bengaluru 560 082 INDIA
T +91 80 4151 0751

Chennai

Unit No. 709 & 710,
7th Floor 'Beta Wing'
Raheja Towers
New Number 177
Anna Salai,
Chennai 600 002 INDIA
T +91 44 4904 8200

Gurgaon

Times Square Fourth Floor
Block B, Sushant Lok 1
Gurgaon 122 002 INDIA
T +91 124 4333 100

Hyderabad

Ammaram Unnathasan Reddy Tower
H No 1-11- 301/3 Ground Floor
Gagan Vihar Begumpet
Hyderabad 500 016 INDIA
T +91 40 2776 0423

Kochi

Pioneer Tower
207-208 Second Floor
Marine Drive
Kochi 682 031 INDIA
T +91 484 410 9999

Mumbai

Lotus Corporate Park
D-401, CTS No.185/A
Graham Firth Compound
Western Express Highway
Goregaon (East)
Mumbai 400 063 INDIA
T +91 22 4921 4000

National Affiliates

Chandigarh, Kolkata, Pune,
Visakhapatnam, Nepal