



A Monthly E-Newsletter

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KEY METRICS

Indices

BSE SENSEX	51,937	6.47%	▲
NSE NIFTY50	15,583	6.50%	▲
NASDAQ Composite	13,749	-1.53%	▼
NIKKEI 225	28,860	0.16%	▲

Currency

USD/INR	72.51	2.08%	▲
EURO/INR	88.65	0.32%	▲
GBP/INR	103.03	-0.72%	▼
JPY/INR	0.662	2.23%	▲

Note: The month-on-month movement as on May 31, 2021 is represented in percentages
Source: Yahoo Finance, Investing.com



DIRECT TAX

Notifications/Circulars

SEP thresholds notified

Payment and user thresholds have been notified for determining SEP in India for non-residents. In terms of the notification applicable from April 1, 2022, if either of the below threshold is breached, then the SEP rules shall apply:

- a) Payments (in aggregate) of INR 2 crores towards sales to Indian persons
- b) Indian users exceeding the number of 300,000 users

Notification No.41/2021-CBDT dated May 3, 2021

No requirement of PAN for eligible foreign investors

No requirement of PAN for eligible NR foreign investors, where the transaction is only in a capital asset listed on a recognized stock exchange in any IFSC in India and the consideration is paid in foreign currency, subject to conditions.

Notification No. 42/2021-CBDT dated May 4, 2021

Extension of various due dates

In the wake of COVID pandemic, various due dates have been extended in order to provide relief to taxpayers:

Compliance	Old Due Date	Extended Due Date
SFT for FY 2020-21	31-05-2021	30-06-2021
TDS Return Q4 FY 2020-21	31-05-2021	30-06-2021
Issue of Form 16	15-06-2021	15-07-2021
Individual ITRs and Non Tax Audit ITRs	31-07-2021	30-09-2021

Compliance	Old Due Date	Extended Due Date
Tax Audit Report	30-09-2021	31-10-2021
TP Report (3CEB) u/s 92E	31-10-2021	30-11-2021
Tax Audit ITRs	31-10-2021	30-11-2021
Transfer Pricing ITRs	30-11-2021	31-12-2021
Belated/ Revised Returns for AY 2021-22	31-12-2021	31-01-2022

Circular No. 09/2021-CBDT dated May 20, 2021

Judicial Rulings

Faceless assessment order passed without considering assessee's objections quashed

Assessee was issued a show cause notice and draft assessment order on April 20, 2021 and was asked to respond by April 21, 2021. In response thereto, assessee sought an adjournment and thereafter filed response on April 22, 2021. On the same day final assessment order was passed. Under these circumstances, assessee filed a writ petition contending breach of principles of natural justice. The Court set aside the assessment order and directed to pass a fresh assessment order after

SEP thresholds notified effective April 1, 2022

Various compliance timelines extended

Faceless assessment order passed without considering assessee's objections quashed

considering the assessee's objection and also grant personal hearing.

KBB Nuts Private Ltd [TS-347-HC-2021(DEL)]

Restriction on adjustment of refund beyond 20 per cent

The main issue of consideration before the Court was in respect of adjusting tax refund beyond 20 percent against demand payable. The Court observed that the power to adjust refund against the demand is limited, as specified by CBDT, and the AO cannot act contrary to same.

Vrinda Sharad Bal [TS-301-HC-2021(BOM)]



INDIRECT TAX

Notifications/Circulars

Various due dates relaxed due to second wave of COVID

- Annual return by composition dealer in GSTR-4 for the financial year ending March 31, 2021 - till May 31, 2021

Notification No. 10/2021-Central Tax dated May 1, 2021

- Particulars of goods dispatched to / received from job worker in Form ITC-04 for the period January to March 2021 - till May 31, 2021

Notification No. 11/2021-Central Tax dated May 1, 2021

- Filing of monthly GSTR-1 for April 2021 – till May 26, 2021

Notification No. 12/2021-Central Tax dated May 1, 2021

- Furnishing details in Invoice Furnishing Facility (IFF) for April 2021 - till May 28, 2021

Notification No. 13/2021-Central Tax dated May 1, 2021

- General extension for all compliances falling due during April 15 to May 30, 2021, except those specifically excluded - till May 31, 2021

Notification No. 14/2021-Central Tax dated May 1, 2021

Restriction on availment of ITC

Rule 36(4) of the CGST Rules, 2017, restricts availment of unmatched credit only to the extent of 5 per cent each month. This restriction has been relaxed and shall apply on cumulative basis for April and May 2021. The GSTR-3B return for May 2021 can be filed with cumulative adjustment for April 2021, if any. The GST Council has further

recommended that this period be extended to cover the cumulative period from April to June 2021, for which notification has subsequently been issued.

Notification No. 13/2021-Central Tax dated May 1, 2021 & Recommendations of GST Council made on May 28, 2021

Refund application rules amended

Changes have been made in the GST Rules related to GST refund application. These are:

- The time period from the date of filing refund claim till the communication of deficiency in Form GST RFD-03 shall be excluded to determine the limitation for filing fresh refund application after rectification of deficiencies.
- An option to withdraw the refund application has now been provided. Application for withdrawal of refund can be filed in Form GST RFD-01W at any stage of refund proceedings. The ITC claimed as refund, shall be recredited to the credit ledger consequent to filing of such withdrawal application.

Notification No. 15/2021-Central Tax dated May 18, 2021

Judicial Rulings

Issue of proper SCN

The SCN 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)

Various due dates relaxed due to second wave of COVID

Refund application rules amended

Maharashtra AAR holds LO is liable for tax

Reversal of ITC

The customer has paid the tax to supplier and cannot be held liable if the supplier has not deposited the tax with government. The customer cannot be asked to reverse ITC on this account. Action must be initiated against the supplier. Option of reversal of credit can be exercised by the revenue authorities only in exceptional situations like missing dealer, closure of business by the supplier or the supplier not having adequate assets etc.

M/s D.Y. Beathel Enterprises v State Tax Officer (Data Cell) (Madras High Court)

Services by LO

The applicant LO is facilitating supply of services between its Dubai Head Office and business located in India. This falls under the definition of intermediary. The applicant is also receiving consideration in excess of expenses incurred by it. As this satisfies all the essential conditions of "supply", the services provided are taxable.

Dubai Chamber of Commerce and Industry (Maharashtra AAR)

CORPORATE & ALLIED LAWS

Notifications

Offsetting the excess CSR spent for FY 2019-20

Excess contribution by companies under 'PM CARES Fund' as prescribed for FY 2019-20 can be offset against the requirement to spend for CSR in FY 2020-21.

E-File No. CSR-01/4/2021/MCA dated May 20, 2021

Extension in timelines between two Board Meetings

The minimum time interval between two Board Meetings has been extended from 120 to 180 days during the first two quarters of 2021 viz. April to June and July to September, due to resurgence of COVID.

General Circular No. 08/2021/MCA dated May 03, 2021

Relaxation on levy of additional fees

No additional fees shall be levied upto July 31, 2021 on certain forms due for filing between April 01 to May 31, 2021 under Companies Act, 2013 and LLP Act, 2008. For such delayed filings, only normal fees shall be applicable.

General Circular No. 06/2021/MCA dated May 03, 2021

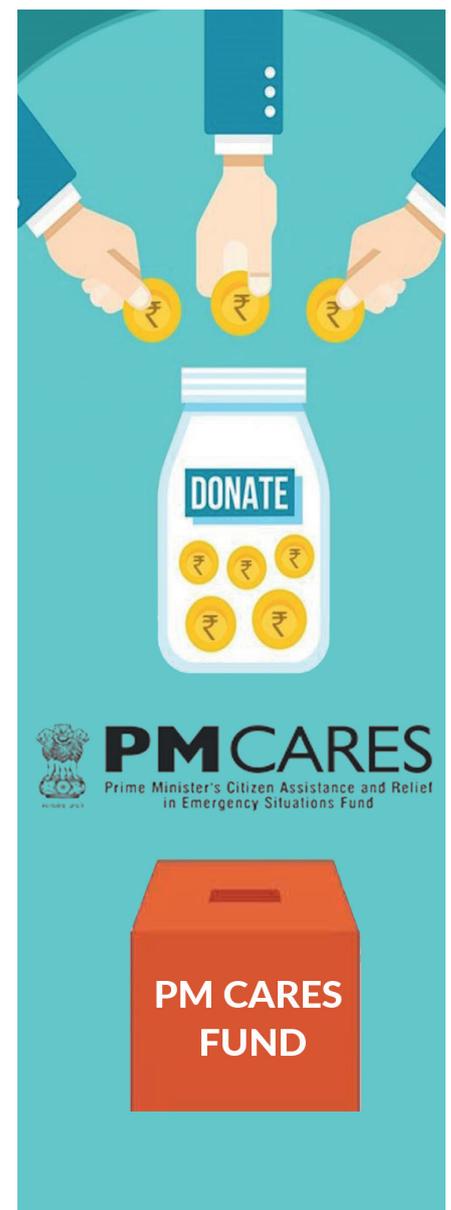
Reserve Bank of India

RBI has issued revised Master Directions on Priority Sector Lending which aims to encourage and support environment friendly lending policies to help achieve Sustainable Development Goals.

Press Release: 72/20-21/RBI dated May 31, 2021

Waiver of additional fees upto July 31, 2021 for Companies and LLP's

One-time relaxation in holding Board Meetings



CFO WATCH

SEBI proposes to bring in the concept of 'Person in Control' as against existing term 'Promoter'

RBI announces Resolution Framework 2.0 for MSMEs

Setting up of COVID health infrastructure qualifies as CSR expenditure

SEBI proposes to bring in the concept of 'Person in Control'

Dynamics of investments in India has seen a major change as compared to previous years. According to an OECD report, aggregate shareholding of promoters in the top 500 listed entities by way of market value is now showing a downward trend whereas, the shareholding of institutional investors has seen an upward trend. Therefore, India's capital market regulator is now looking at doing away with the concept of a 'promoter' for listed companies, seeking to align the definition of executive ownership with global practices where the concept of a 'person in control' is used to link decision making and primary shareholding.

RBI announces Resolution Framework 2.0 for MSMEs amidst second wave of pandemic

Resolution Framework 2.0 has been announced for stressed assets of the 'most vulnerable borrowers' i.e. small businesses, MSMEs and individuals amid the adverse impact of second wave of pandemic. As part of loan restructuring, borrowers with an aggregate exposure of INR 25 crore and not having availed restructuring till date, are eligible under one-time restructuring till September 30, 2021. Moratorium period of loans also extended by two years for those SMEs and MSMEs which had availed restructuring under the previous Framework.

Setting up of health infrastructure for COVID including medical oxygen generation and storage plants qualifies as CSR expenditure

MCA clarified that corporate funds spent on creating health infrastructure, manufacturing and supply of oxygen concentrators, ventilators, cylinders and other medical equipments for COVID treatment and relief would be eligible as CSR spend.

MERGERS & ACQUISITIONS

Indian internet startups enjoy high valuations as investors remain positive on massive digital adoption

Indian startup ecosystem has seen 14 new additions to the unicorn club this year including Meesho, Pharmeasy, Cred, Groww, Urban Company etc. All these companies have seen a massive valuation jump. For instance, Cred's valuation jumped from USD 806 Mn to USD 2.2 Bn and Meesho was valued at USD 2.1 Bn versus USD 700 Mn in the last round.

The current euphoria around soaring startup valuations in India is primarily driven by massive opportunity on account of digitization of world's second most populous nation which is further accelerated due to COVID induced lifestyle changes and work-from-home dynamics.

While valuations for traditional businesses are a function of a revenue or profit multiple, internet unicorns command rich valuations despite huge losses. For instance, Jubilant Food Works, largest franchise for Domino's and a profit-making business with a revenue of USD 540 Mn in FY20 was then valued at USD 2.5 Bn versus Zomato, an asset-light restaurant aggregator which is still loss making and reported to be valued at USD 5.4 Bn on a revenue of only USD 365.7 Mn in FY 20. Such high valuations are mainly driven by ability of internet businesses to expand their market reach exponentially as compared to brick and mortar businesses. Investors value them on their potential to become profitable using economies of scale and eliminating competition eventually. Significant initial investment in technology and customer acquisition is offset by huge profits once market leadership position is attained.

However, IPO seems to be the litmus test for such businesses which ultimately decides whether valuations offered by private investors holds its ground. This is evidenced by WeWork's failed IPO and Uber's not so impressive performance on the bourses. On the flip side, there are success stories like Doordash, Airbnb and EaseMyTrip. Today, start-ups realize this and are therefore streamlining their businesses by shutting down unprofitable segments, reducing costs and reporting financials regularly to the public even when not required legally.



IN THE NEWS



Webinars

Recent amendments in Schedule III of Companies Act, 2013 -

May 06, 2021

Speakers: D Ramprasad, Practice Head, Bangalore, Vinay KS, Executive Partner, Assurance World Trade Center (WTC) - Bengaluru, Chennai, Kochi and Pune invited Ramprasad and Vinay to speak about the recent amendments in Schedule III of the Companies Act, 2013 and their impact.

IBC Updates: Recent Amendments & Judgements -

May 31, 2021

Speaker: Himanshu Srivastava, Partner, Business Advisory Services Southern India Chamber of Commerce and Industry (SICCI) invited Himanshu to speak at a panel discussion on "IBC Updates: Recent Amendments & Judgements".

Published Articles & Quotes by our Partners

The New Labour Codes – Impact on Manufacturers -

May 03, 2021

Author: Himanshu Srivastava, Partner, Business Advisory Services
A summary of the impact of the new Labour Codes on employers and employees in the manufacturing sector.

RBI's new audit norms a shot in the arm for Indian firms -

May 04, 2021

Author: Keyur Dave, Practice Head, Mumbai

Published in ETCFO, this article highlights the implications of RBI's new norms for auditors as well as for investors.

The New Labour Codes – Impact on Services Sector -

May 05, 2021

Author: Himanshu Srivastava, Partner, Business Advisory Services
A summary of the impact of the new Labour Codes on employers and employees in the services sector.

Groundbreakers: Gen Z and the future of Accountancy -

May 05, 2021

Interview: Prateet Mittal, Partner, Assurance

In this interview with ACCA, Prateet spoke at length about his experience in understanding the needs of younger accountants and methods to attract and retain them in the organization.

Reports or Certificates for Special Purposes -

May 25, 2021

Author: Parveen Kumar, National Head, Assurance

This article, published by Taxsutra Greentick, covered the interpretation and impact of the guidance note on Reports or Certificates for Special Purposes.

Embracing Technology & Digital Transformation -

May 29, 2021

Interview: Ajay Sethi, Managing Partner

In an interview with The Finance Story - Empowering Stories, Ajay spoke about ASA's digital journey and how the company managed its own digital transformation and company-wide acceptance of it, by carefully balancing available technologies and internal requirements.

What the MSME sector requires post second wave of Covid-19? -

May 31, 2021

Author: G Viswanathan, Director, Accounting and Business Support
Published in ETCFO, this article covers the situation that the MSME sector in India is facing with the second wave and key policy moves that the government could take to help the sector emerge from the resulting disruptions in business.

GLOSSARY



AO

Assessing Officer

AAR

Authority for Advance Ruling

AY

Assessment Year

Bn

Billion

CBDT

Central Board of Direct Taxes

CSR

Corporate Social Responsibility

FY

Financial Year

HC

High Court

IFSC

International Financial Services Centre

IPO

Initial Public Offering

ITC

Input Tax Credit

ITR

Income Tax Return

LO

Liaison Office

M&A

Mergers and Acquisitions

MCA

Ministry of Corporate Affairs

Mn

Million

MSME

Micro, Small and Medium Enterprises

NR

Non Resident

OECD

Organisation for Economic Co-operation and Development

PAN

Permanent Account Number

RBI

Reserve Bank of India

SC

Supreme Court

SCN

Show Cause Notice

SEBI

The Securities and Exchange Board of India

SEP

Significant Economic Presence

SFT

Specified Financial Transactions

SMEs

Small & Medium Enterprises

TDS

Tax Deducted at Source

TP

Transfer Pricing

USD

United States Dollar



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