



A Monthly E-Newsletter

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October 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	59,126	2.73%	▲
NSE NIFTY50	17,618	2.84%	▲
NASDAQ Composite	14,449	-5.31%	▼
NIKKEI 225	29,453	4.85%	▲

Currency

USD/INR	74.16	-1.67%	▼
EURO/INR	85.89	0.28%	▲
GBP/INR	99.91	0.42%	▲
JPY/INR	0.67	-0.32%	▼

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



DIRECT TAX

Notifications/Circulars

Extension of various limitation periods

Considering hardships faced by the taxpayers in electronic filing of ITRs, various due dates are extended further for AY 2021-22 are as under:

Compliance	Extended Due Date
Return of Income, original due date of which was - July 31, 2021 - October 31, 2021 - November 30, 2021 Revised/Belated Return of Income	December 31, 2021 February 15, 2022 February 28, 2022 March 31, 2022
Report of Audit, due date of which was - September 30, 2021	January 15, 2022
Form 3CEB, due date of which was - October 31, 2021	January 31, 2022
Linking of PAN with Aadhaar	March 31, 2022
Completion of penalty proceedings	March 31, 2022
Processing of refunds for ITRs filed up to AY 2017-18 under non-scrutiny cases	November 30, 2021

Circular no. 17/2021, Notification no. 113/2021 and Order no. 225/98/2020-ITA-II dated September 9, September 17 and September 30, 2021 respectively

Applicability of Safe Harbour rules extended to AY 2021-22

Validity of Transfer Pricing Safe Harbour rules extended to AY 2021-22 as well.

Notification no. 117/2021 dated September 24, 2021

Cases excluded from Faceless Scheme notified

The following cases shall be excluded from the Faceless Scheme:

- Cases not created on the e-filing portal due to technical bugs or not having PAN
- Reassessment/set-aside cases where time limit for completion expires on September 30, 2021

Order no. 187/3/2020-ITA-I dated September 22, 2021

Judicial Rulings

Assessment order quashed due to non - consideration of the replies filed

Assessment order has been passed alleging that assessee failed to provide any documentary evidence or even respond to show cause notice issued to it, but e-proceedings tab shows that reply to show cause notice alongwith various annexures have been submitted by assessee. In such circumstances Hon'ble Court set aside the assessment order, since AO had not considered the reply filed by assessee before passing assessment order.

Zeus Housing Company v. Union of India (Bombay High Court)

Notices received under section 148 after March 31, 2021 quashed

The Hon'ble High Court quashed 148 notices issued on or after 1st April, 2021 on the basis of Notification no. 20/2021 dated March 31, 2021, which specified that old provisions of section 148, 149 and 151 will be applicable up to June 30, 2021. Consequently, all the notices issued under section 148 after March 31, 2021 quashed with the

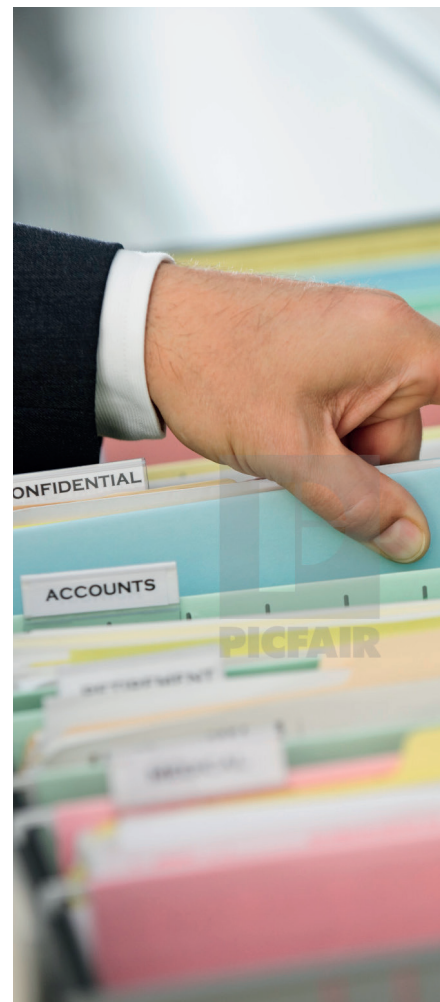
liberty to department to issue notices under the new scheme of Finance Act, 2021 as per the law and procedure contained therein.

Ashok Kumar Agarwal v. Union of India and 2 Others (Allahabad High Court)

Extension of various limitation periods

Cases excluded from Faceless Scheme notified

Notices received under section 148 after March 31, 2021 quashed



INDIRECT TAX

Notifications/Circulars

Circulars issued pursuant to 45th GST Council meeting

- **Intermediary services:** Clarificatory circular has been issued with examples to determine whether supply of services shall fall under 'Intermediary' services. It also lays down the essential conditions that have to be fulfilled for any service to be taxable under this category.

Circular No. 159/15/2021-GST dated September 20, 2021

- **Credit availment for debit note:** It has been clarified that with effect from January 01, 2021, the limitation of credit availment for a debit note shall be determined based on the date of issue of debit note and not the date of underlying invoice for which such debit note has been issued.

Circular No. 160/16/2021-GST dated September 20, 2021

- **Documents during transit of goods:** There is no need to carry physical copy of e-invoice during transit of goods.

Circular No. 160/16/2021-GST dated September 20, 2021

- **Conditions of export of services:** It has been clarified that a company incorporated in India and a body corporate incorporated outside India are separate persons. Accordingly, these two separate persons would not be considered as 'merely establishment of a distinct person'. Supplies between such entities would qualify as 'export of services' subject to fulfilment of other conditions as specified in definition of export of services.

Circular No. 161/17/2021-GST dated September 20, 2021

Judicial Rulings

Arbitrary blocking of credit ledger

Commissioner cannot exercise the power to block electronic credit ledger of the taxpayer on the basis of mere suspicion that the transactions are sham. The same can only be exercised basis some relevant records or proofs, without which, such actions shall be considered as sheer misuse of power.

M/s North End Food Marketing Private Limited (Allahabad High Court)

Order issued without issuing SCN

Where the SCN for assessment and penalty was issued for only a particular FY then the order issued by the officer cannot cover any other FY. The stand of the officer that once notice is issued for a particular FY, no SCN is necessary for other periods stems from utter ignorance of law.

M/s OPC Assets Solutions Pvt Ltd (Tripura High Court)

Transfer of business in part as a going concern

Transfer of part of running business which is capable of being carried on by the transferee as an independent business in continuity without any hindrance for a foreseeable period shall be considered as transfer of going concern. It is not necessary that one need to transfer whole business.

M/s Airport Authority of India (AAR Gujarat)

Disposal of perishable goods

Inputs used as raw materials in manufacturing food items which got expired being perishable in nature shall be considered as ineligible

Transfer of part of business is transfer as 'going concern'

Multiple tasks in a contract not a composite supply

Managerial / leadership services by Corporate Office taxable

credits as the act of throwing away expired food items is akin to destroying the food items.

M/s Kanayalal Pahilajrai Balwani (AAR Gujarat)

Composite supply

The mere fact that a number of tasks have been entrusted to the assessee though a single contract would not make it as composite supply. The obligations of supply envisaged in the contract are distinct and separable and hence separate activity of supply of goods and services should be viewed independently on its merits.

M/s BEML Ltd (AAAR Karnataka)

Supply by corporate office to its branches / group companies

Managerial and leadership services provided by corporate office to its branch offices and group companies shall be taxable even when consideration is not involved. The contention that such services are provided by the corporate office employee and hence out of purview of GST under Schedule III is not acceptable.

M/s B.G. Shirke Construction Technology Pvt Ltd (Maharashtra AAR)

CORPORATE & ALLIED LAWS

Notifications

Extension in timelines to file Cost Audit Report

Timelines for issue of Cost Audit Report by the Auditor shall stand extended upto October 31, 2021 against the initial timelines of 180 days from the close of the Financial Year. Such report can be filed with Registrar of Companies in Form CRA-4 by November 30, 2021.

Circular No. 15/2021/MCA/dated September 27, 2021

Exim Bank's Government of India supported Line of Credit (LoC)

Exim Bank has entered into an agreement as per the below details:

RBI Master Directions

Draft frameworks on Securitisation of Standard Assets and Sale of Loan Exposures were released by RBI on June 8, 2020. Based on the examination of comments received, Master Directions on both have been issued. These directions come into immediate effect replacing the existing instructions on the subject matter.

Circular No. 85 & 86/RBI/DOR/2021-22/dated September 24, 2021

Others

Production Linked Incentive Scheme

Ministry of Heavy Industries released the Production Linked Incentive Scheme and operational guidelines for Automobile and Auto Component Industry to boost domestic manufacturing of Advanced Automotive Technology products and attract investments in the automotive manufacturing value chain. The budgetary outlay under the scheme is of INR 259.38 billion.

Notification No./S.O. No. 3946(E)/DHI/September 23, 2021

Party/ Country	Date of execution	Effective Date	Transaction Value	Purpose
Democratic Socialist Republic of Sri Lanka	March 16, 2021	September 13, 2021	USD 100 million	Financing projects in the Solar Energy Sector
Republic of Sierra Leone	December 17, 2020	August 31, 2021	USD 15 million	Financing of export of eligible goods and services from India

Circular No. 14 & 15/RBI/2021-22/dated September 30, 2021



Extension in timelines for filing Cost Audit Report

Release of Production Linked Incentive Scheme and guidelines for Automobile Sector

CFO WATCH

MCA extends time for holding AGM for FY 2020-21

Extension of time for holding AGM for FY 2020-21

Considering the difficulties and hardships faced by the stakeholders in conduct of AGM due to the second wave of COVID-19 and consequent lockdown etc., MCA has extended the timeline to hold AGM. Now, companies are allowed to hold AGM by November 30, 2021 and the same can be conducted through VC or OAVM modes as well. The extension of aforesaid timelines has brought relaxation in finalisation of books of accounts for the financial year 2020-21.



MERGERS & ACQUISITIONS

Going public – Key considerations and decisions

Going public is the process of offering securities of a privately-owned company for sale to the general public. The first time such securities are offered is referred as IPO. An IPO is a very specific and highly regulated product that can have nuances related to country of operation and country of listing. Some of the possible reasons for an IPO include access to public capital to raise money and expand operations, provide liquidity to existing shareholders or even enhance a company's brand. About 58 companies have listed on domestic bourses so far in this year alone including Zomato, Nazara Technologies, Indigo Paints and Devyani International. The IPO journey is long and complex and requires thorough advance preparation and a structured approach to manage transformation after the IPO.

Some of the critical pre-IPO considerations are listed below:

- **Determine the Listing destination**
The company needs to decide the capital market venue, stock exchange and listing segment. Key considerations to make this decision include assessment of different markets to achieve maximum valuations, liquidity, investor appetite and regulatory requirements.
- **Prepare to become a Public Company**
A public company faces a high level of scrutiny and accountability. Any firm looking to go public must assess its readiness and commit substantial resources to the IPO process and build quality management teams, robust financial and business infrastructure, corporate governance and investor relations strategy. Some of the steps towards such preparation include:
 - a) Preparation of audited financials under appropriate GAAP
 - b) Implementing an ERP system to improve internal controls
 - c) Filling in key management roles like CFO
 - d) Strengthening the Board to give confidence to the investor community
 - e) Building a public markets profile and consider hiring a PR firm
 - f) Hiring an investor relations personnel.
- **Developing a compelling Equity Story**
The equity story is the foundation of any successful IPO. The purpose of the equity story is to create a clear vision for the organization while serving as a compelling rationale for why investors should be interested in buying the stock. Typically, it highlights the addressable market, growth drivers, company strengths and strategy. Sometimes, acquisitions may be done prior to the IPO to scale up business and contribute to the growth story.
- **Structuring the IPO to fulfil strategic rationale**
Getting the right company or group structure in place is critical to driving value and efficiency in case of an IPO. This exercise is critical to structure of the offer. It may include merger, demerger, etc. of businesses under an entity.
- **Building a team of experts and advisors**
The company will need to hire many experts and advisors during the IPO process, such as auditors, lawyers, underwriters, accounting advisors, capital markets advisors and a project management team.

IN THE NEWS

Webinars

Top 10 Warning Signs No CFO Should Ignore

September 1, 2021

Speakers: Parveen Kumar, National Head - Assurance, ASA and Amarjit Chopra, Past President, ICAI

In this first part of our CFO Series, the speakers looked at 10 warning signs no finance leader should ignore and practical solutions to deal with each warning sign. This was also covered by ETCFO.

Practical Aspects of Digitalising the Finance and Accounting Function

September 15, 2021

Speakers: Vikas Wadhawan – Group CFO, REA India and Manuj Dua, Associate Director, DATS, ASA

In this second part of our CFO series, the speakers discussed key issues to be considered when digitalizing the finance and accounting function of an organization and ways to ensure company-wide implementation and adoption of new technologies.

Top 10 Red Flags While Tax Planning

September 22, 2021

Speakers: Sunil Arora, Partner - Taxation, ASA and Yogesh Mittal, CFO & Lead Strategy, JBM Environment Project

In this third and final part of our CFO series, the speakers discussed critical corporate tax issues of concern for the CFOs and ways in which to prevent these from occurring.

Other Webinars

Supply Chain Resilience Summit - September 16, 2021

Speaker: Himanshu Srivastava, Partner, Business Advisory

Himanshu was invited by Invest India to speak at their summit targeted at India-Japan-Taiwan based companies with supply chains in all three countries. Himanshu spoke about the labour law reforms currently being enacted in India and their impact on companies setting up in India or already operating in India.

Export of Services under GST - Concerns & Challenges

September 22, 2021

Speaker: Sundeep Gupta, Partner and Jayashree SK, Associate Director, Accounting & Business Support and Indirect Tax

Organized by the World Trade Center, the speakers discussed the applicable provisions, legal aspects, concerns & practical challenges involved in the export of services from India under the GST framework.

How to do business in India: Key tips to success & pitfalls to avoid

September 29, 2021

Speaker: Himanshu Srivastava, Partner, Business Advisory and Kim Collaco, Executive Director, Enterprise Strategy

The Department of International Trade, UK invited Himanshu and Kim to address a Food & Drink summit and speak about key areas for UK F&D companies to pay attention to when looking at doing business in India.

Articles

Synopsis of Guidance Note on 'Audit on Payment of Dividend'

September 7, 2021

Author: G N Ramaswami, Partner, Assurance

In this article published by Taxsutra, the author summarized the guidance note on Audit of Payment of Dividend.

The Challenges for Medium Sized Businesses Post COVID-19

September 14, 2021

Author: Ajay Sethi, Managing Partner

Ajay was invited to contribute to ACCA's latest report on the needs of mid-tier businesses.

Synopsis of Guidance Note on 'Audit on Revenue'

September 17, 2021

Author: G N Ramaswami, Partner, Assurance

Taxsutra published this article in which the author summarized the ICAI's guidance note on audit of revenue.

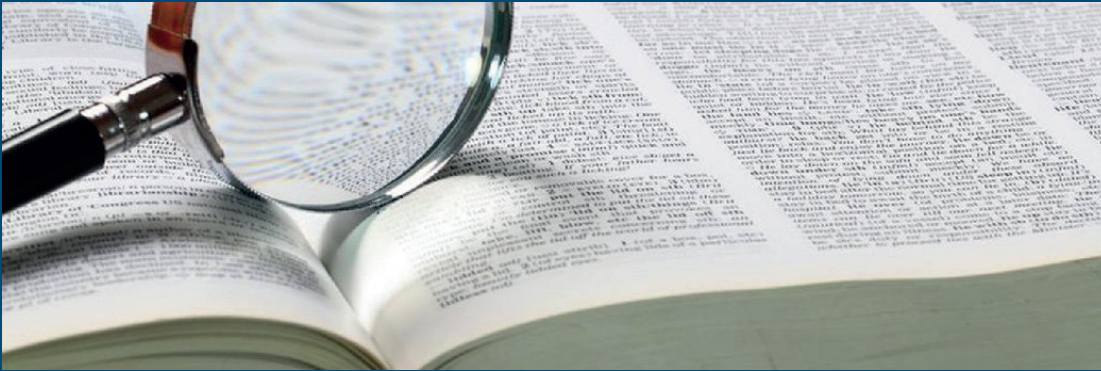
The Great Divide: Digitalisation and Tax Administration -

September 18, 2021

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

ET CFO published this article in which the author shared his views on wide gap between the digitilisation and tax administration and also suggested ways to mitigate this gap.

GLOSSARY



AO

Assessing Officer

AY

Assessment Year

AGM

Annual General Meeting

CBDT

Central Board of Direct Taxes

CFO

Chief Financial Officer

DSC

Digital Signature Certificate

ERP

Enterprise Resource Planning

EVC

Electronic Verification Code

EXIM Bank

Export-Import Bank of India

FY

Financial Year

GAAP

Generally Accepted Accounting Principles

GST

Goods & Services Tax

ICAI

Institute of Chartered Accountants of India

IPO

Initial Public Offer

ITAT

Income Tax Appellate Tribunal

ITR

Income Tax Return

MCA

Ministry of Corporate Affairs

OAVM

Other Audio Visual Means

PAN

Permanent Account Number

PR

Public Relations

RBI

Reserve Bank of India

SCN

Show Cause Notice

VC

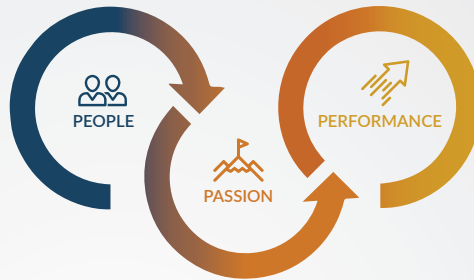
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Visakhapatnam, Nepal

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