

A Monthly E-Newsletter

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The Bottom Line

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KEY METRICS

Indices

BSE SENSEX	57,065	-3.78%	▼
NSE NIFTY50	16,983	-3.90%	▼
NASDAQ Composite	15,538	0.25%	▲
NIKKEI 225	27,822	-3.71%	▼

Currency

USD/INR	75.09	-0.23%	▼
EURO/INR	85.12	1.72%	▲
GBP/INR	99.83	2.67%	▲
JPY/INR	0.66	-0.82%	▼

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



DIRECT TAX

Notifications/Circulars

Annual Information Statement provides various details of taxpayer

The newly launched AIS depicts the information relating to financial transactions undertaken by the taxpayer in a financial year. This information is collated by the tax department from various sources. AIS is more comprehensive form of Form 26AS containing details of income earned from various sources such as dividend, interest from saving bank account, sale and purchase of shares/securities etc., besides the details of TDS, TCS and any tax demand or refund.

Press release dated November 1, 2021

Clarifications issued on TDS in case of e-commerce operators and purchase of goods and TCS in case of seller of goods

In order to remove difficulties in implementing the provisions of TDS and TCS in case of e-commerce operators, purchase of goods and sale of goods, clarificatory circular has been issued:

- TDS provisions under section 194-O shall not be applicable to e-auction services,
- TDS under section 194Q not to be applied on portion of VAT/Sales tax/Excise duty/CST separately

indicated in invoice in case of purchase of goods which are not covered within the purview of GST

Circular No. 20/2021 dated November 25, 2021

Judicial Rulings

TDS credit allowable, even if not deposited by employer

The Hon'ble Court held that TDS credit cannot be denied to an employee, even if the employer has not deposited the taxes deducted and has not issued Form 16 towards the same.

Kartik Vijaysinh Sonavane v. Deputy Commissioner of Income-tax (Gujarat High Court)

Foreign tax credit allowed even if Form 67 not filed before due date

It was held that requirement to furnish Form No. 67 is not mandatory but directory in nature and that Rule 128 does not provide for disallowance of foreign tax credit owing to non-furnishing of Form 67 within prescribed time. Also held that violation of procedural norm does not extinguish the substantive right of claiming tax credit. Furthermore, DTAA overrides the provisions of the

Annual Information Statement provides various details of taxpayer

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Act, and the Rules cannot be contrary to provisions of the Act.

Brinda RamaKrishna v. Income Tax Officer (Bangalore ITAT)

Investments made by non-resident in India, not taxable

Investments made in India by a non-resident were sought to be taxed in India attracting the provisions of section 69 of the Act. Here, ITAT held that unless these investments were proved to be made out of income generated in India, no tax incidence arises in India as the treaty allocates taxing rights on incomes to both contracting states based on source or residence jurisdiction and not based on investment jurisdiction.

Income Tax Officer v. Rajeev Suresh Ghai (Mumbai ITAT)



INDIRECT TAX

Circulars / Notifications

Applicability of Dynamic QR Code

Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India and the payment has been received by supplier in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without Dynamic QR Code.

Circular No. 165/21/2021-GST dated November 17, 2021

Clarification on refunds:

- i. No time limit shall be applicable for filing of refund of excess balance in electronic cash ledger (ECL).
- ii. Declaration/Certification for not passing the incidence of tax to any other person shall not be required to be furnished in case of refund of excess balance in ECL.
- iii. Amount available in ECL due to TDS/TCS collected by the registered person, can be claimed as a refund under the head excess balance in ECL.
- iv. The relevant date for purpose of filing refund claim for refund of tax, in relation to deemed export supplies, shall be the date of filing of return by the supplier.

Circular No. 166/22/2021-GST dated November 17, 2021

Judicial Rulings

Casual Taxable Person

Supply of goods and rendering of services from a place other than the

registered place of business requires additional registration as a casual taxable person.

M/s Pragati Engineers (Delhi High Court)

GST registration in the State of import

Where imported goods are sold directly from the container freight station without clearing for home consumption, the place of supply shall be the office of the supplier registered under GST from where the supply is made. No separate registration shall be required to be obtained in the State where the goods were imported.

M/s Kamdhenu Agrochem Industries LLP (AAR Maharashtra)

Merchant export

To avail the concessional rate of 0.1%, the merchant exporter should directly move the goods from the place of registered supplier to the port / custom station for export. As the goods have been sent to a job worker for further processing on the directions of the merchant exporter, supply cannot be made at concessional rate.

M/s Time Technoplase Ltd (AAR Karnataka)

Reimbursement of expenses

The applicant is a wholly owned subsidiary and is providing certain services to its holding company. For providing the said services, applicant is receiving amounts on actual basis in form of reimbursement of expenses. Such reimbursements are nothing but consideration for

Clarifications issued on GST refunds

Reimbursements are part of consideration of supply and taxable

Merchant export benefit not available where goods sent for job work before export

rendering the consultancy services. However, since the supply is pure services rendered to a Government entity, the same shall not be taxable.

M/s Maha Mumbai Metro Operation Corporation Ltd (AAR Maharashtra)

Taxability of employee recoveries

The applicant is recovering insurance premium from its employees and paying the same to the insurance company. Non-providing of mediclaim policy to employees shall not in any way impact the business. Therefore, the said recovery cannot be treated as an activity done in course or furtherance of business and will not be a supply under GST.

M/s Tata Power Company Ltd (AAR Maharashtra)

Inadvertent error in TRAN-01 form

Department cannot deny the carry forward of transitional credits due to an inadvertent error at the time of filing Form TRAN-01.

M/s Bharat Electronics Ltd (Madras High Court)

CORPORATE & ALLIED LAWS

Circulars / Notifications

Electronic Filing of RCMC/ RC via the Common Digital Platform

All the applications for RCMC or RC shall be submitted through the common platform DGFT Portal with effect from December 12, 2021 and shall continue up to February 22, 2022 or until further orders.

*Notification No. 27/2021/DGFT/
dated November 30, 2021*

Safe Custody of Digital Tokens, Documents, Scrips for Secure Online Transactions

Guidelines have been issued for safe and secure online transactions. Members of the trade and industry are requested to check from time to time the duty credit scrips which are accounted for and reflected in their online module.

*Notification No. 26/2021/DGFT/dated
November 26, 2021*

Electronic Filing of
RCMC/RC via the
Common Digital
Platform



CFO WATCH

SEBI issues stricter norms for governing Related Party Transactions, effective April 1, 2022

SEBI notifies amendments to related party provisions under the LODR Regulations

SEBI has notified amendments to the SEBI (LODR) Regulations, 2015 with respect to the definitions of 'related party' and 'related-party transactions'. The norms for RPTs have been further strengthened to safeguard the public interest. Notification also covers the changes to the process followed by a company's audit committee for approval of material RPTs. Further, there will be a format for reporting of RPTs to the stock exchanges. The amendments will come into force with effect from April 1, 2022.

RBI announces scale-based regulatory framework for NBFCs

The regulatory structure for NBFCs will comprise of four layers based on their size, activity, and perceived riskiness. NBFCs in the lowest layer will be known as NBFC – Base Layer (NBFC-BL), while those in the middle layer and upper layer will be known as NBFC – Middle Layer (NBFC-ML) and NBFC – Upper Layer (NBFC-UL) respectively. Under the new framework, the RBI has revised the non-performing asset (NPA) classification to more than 90 days for all categories of NBFCs. Besides this, there are other changes which are related to experience of the Board, ceiling limits defined for financing subscription to IPOs etc. New framework will be effective from October 1, 2022.

MERGERS & ACQUISITIONS

Impact of ESG on M&A transactions

ESG has been gaining significant traction over the past few years as one of the most critical investment parameters for M&A transactions. Every business is enormously interlinked with ESG concerns, therefore having a strong ESG proposition in a company's process and value chain can command enormous value.

ESG has become a key agenda in the M&A space. As ESG assets under management set a course to reach USD 53 trillion by 2025, more than a third of the USD 140.5 trillion projected total under management, some of the most recent mergers and acquisitions have carried a distinct ESG tone.

As buyers are highly conscious of the role of ESG and its long-term impact on the businesses which they buy, hence an ESG audit is a preferred choice to evaluate the price which they are paying for the targets. Any underperformance in the ESG score can directly impact the targets business value, hence a haircut on part of the sellers. On the other end of the spectrum, sellers need to focus on the making their business ESG compliant by establishing industry best practices from various perspective including energy consumption and dissipation, corporate governance, efficient treatment of discharged effluents, empathetically understanding and fostering all stakeholder relationships, comply with all regulatory and statutory norms.

ESG factors can be expected to increasingly influence how companies select potential targets and business partners. Certain key ESG risks related to corrupt business practices, privacy and data security, climate change, greenhouse gas emissions, diversity and labor practices are already being evaluated in the context of M&A due diligence, as are the more general considerations of the potential impact of an acquisition on the reputation, culture and integration of the combined company. Similarly, quantifying the business value and adjusting for the associated risks involved due to poor or good ESG scores is also being increasingly factored in M&A valuations.

ESG has become an important component in valuing the overall business for certain industries. However its impact is set to be witnessed across all the industries with a direct impact on the betterment of the environment, corporate governance and all the stakeholders of the business. This is a long term trend that is likely in the coming years.



IN THE NEWS



Webinar for clients

ACCA Podcast: Managing talent in a pandemic

November 23, 2021

Speaker: Ajay Sethi, Managing Partner

Ajay was invited by ACCA Careers to share his experience and views about the impact that pandemic had on the staff and how we have been supporting them to survive and thrive.

Indian Accounting Standards (Ind AS) – Recent Amendments, Emerging Global Practices, and Challenges

November 26, 2021

Speakers: Parveen Kumar, National Head, Assurance

ASSOCHAM invited Parveen for their 4th National Seminar where he discussed about the prolonged postponement challenges for implementation of Ind AS in Banking & Insurance sector,

its subjectivity and prevention of accounting frauds and manipulations.

Articles

Clarification by RBI on IRACP Norms – A much needed relief

November 30, 2021

Authors: Parveen Kumar, National Head, Assurance

In this article, Parveen discussed the clarifications by RBI on Prudential Norms for Income Recognition, Asset Classification and Provisioning pertaining to advances.



GLOSSARY



AIS

Annual Information Statement

GST

Goods and Service Tax

M&A

Mergers & Acquisitions

RC

Registration Certificate

TDS

Tax Deducted at Source

CST

Central Sales Tax

IGST

Integrated Goods & Services Tax

NBFC

Non-Banking Financial Company

SEBI

Securities and Exchange Board of India

VAT

Value Added Tax

CGST

Central Goods & Services Tax

IPO

Initial Public Offering

QR

Quick Response

SGST

State Goods & Services Tax

DTAA

Double Taxation Avoidance Agreement

IRACP

Income Recognition and Asset Classification and Provisioning

RBI

Reserve Bank of India

TCS

Tax Collected at Source

DGFT

Directorate General of Foreign Trade

ITAT

Income Tax Appellate Tribunal

RPTs

Related-Party Transactions

ESG

Environmental, Social and Governance

LODR

Listing Obligations and Disclosure Requirements

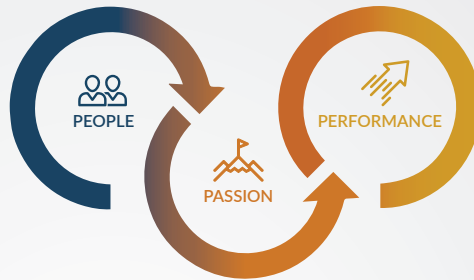
RCMC

Registration cum Membership Certificate

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