



A Monthly E-Newsletter

Vol 03 Issue 02

February 2022

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	58,014	-0.41% ▼
NSE NIFTY50	17,340	-0.08% ▼
NASDAQ Composite	14,240	-8.98% ▼
NIKKEI 225	27,002	-6.22% ▼

Currency

USD/INR	74.53	-0.08% ▼
EURO/INR	83.72	1.11% ▲
GBP/INR	100.20	0.54% ▲
JPY/INR	0.65	-0.17% ▼

Note: The month-on-month movement as on January 31, 2022 is represented in percentages
Source: Yahoo Finance, Investing.com



DIRECT TAX

Notifications/Circulars

Further extension of various time limits

Considering the difficulties reported by taxpayers due to COVID-19 and in electronic filing of various reports of audit, CBDT further extends due dates for AY 2021-22:

Compliance	Original Due Date	Extended Due Date
Report of Audit	September 30, 2021 October 31, 2021	February 15, 2022
From 3CEB	October 31, 2021	February 15, 2022
Return of Income	October 31, 2021 November 30, 2021	March 15, 2022

Circular No. 01/2022 dated January 11, 2022

Judicial Rulings

Right of personal hearing under faceless assessment is a vested right

The Hon'ble Court in its landmark judgment held that personal hearing is a vested right of the assessee and must be granted. That the word 'may' used in section 144B(7)(viii) should be read as 'must' or 'shall', and the requirement of giving a reasonable opportunity of personal hearing is mandatory.

Bharat Aluminium Company Ltd. v. Union of India (Delhi High Court)

Assessment order being replica of draft order was quashed

Where final faceless assessment order was nothing but an exact reproduction of the draft assessment order, without considering the submissions made by the assessee, the assessment order was quashed.

Darshan Enterprise v. ACIT (Gujarat High Court)

Revision cannot be invoked in case of full examination

The court held that, the specified authority was incorrect in invoking revision proceedings, in case where complete examination of was done by the tax officer at the time of assessment proceedings.

Concern India Foundation v. DCIT (Mumbai ITAT)

Valuation report cannot be rejected basis variance from projected performance

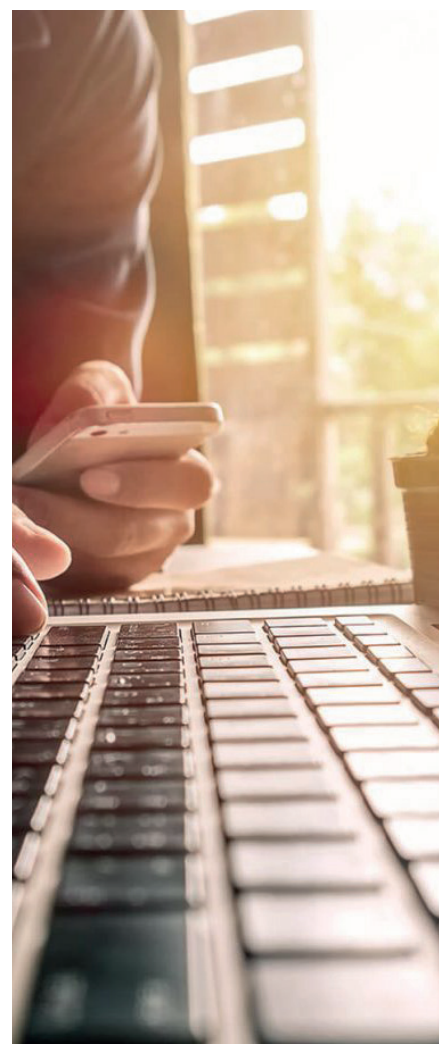
It was held that under law, an option is given to the assessee for choosing the method of valuation which cannot be withdrawn. Both the methods have different approaches and methodologies and there are bound to be differences. DCF method is based on projected figures and on availability of the actual figures, if the future projections are not met, it cannot be said that the projections were wrong.

DCIT v. Credtalpa Alternative Investment Advisors Pvt. Ltd. (Mumbai ITAT)

Further extension of various time limits

Valuation report cannot be rejected basis variance from projected performance

Right of personal hearing under faceless assessment is a vested right



INDIRECT TAX

Circulars / Notifications

Recovery proceedings for difference in GSTR-1 and GSTR-3B

In case where the amount of liability reflected in GSTR-1 is more than the amount reflected in GSTR-3B, then the officer should provide an opportunity of being heard to the registered person because such differences can arise due to genuine reasons like a typographical error or the registered person may report wrong figures in GSTR-1 by mistake.

Instruction 01/2022-GST dated January 01, 2022

Judicial Rulings

Recoveries towards canteen, transportation, notice pay and health insurance from employees

Recovery of nominal amount from employees for providing canteen supplies and transportation facility shall not be taxable under GST as the said activities are not incidental or ancillary to the main business activity of the applicant. Further, the employees in the organization are free to leave the organization post payment of notice period salary as the resignation by employee is not subject to acceptance from employer. In absence of any activity or any passive role by employer the said transaction cannot be regarded as supply under GST.

M/s Emcure Pharmaceuticals Ltd (AAR Maharashtra)

In another case it was held that the recovery of expenses towards health insurance of parents and notice pay from employees does not amount to supply of services under GST laws

and hence these recoveries are not taxable.

M/s Syngenta India Ltd (AAR Maharashtra)

Cross charge of salaries by Head Office (HO) to Branch Office (BO)

In this case, HO was allocating and recovering salary cost of HO's employees from its BOs towards facilitation of operational requirements of BOs. HO also procured common input services on behalf of its BOs. It was held that cross charge of salaries shall be taxable under GST as the facilitation services are provided by HO to BO and not by employee to BO. Further, HO will not be permitted to take input tax credit (ITC) of such common input services procured on behalf of BOs. Also, if HO intends to transfer such credit, then it must register itself also as an Input Service Distributor (ISD) in addition to any other registration it may have. In respect of cross charge of common input services, it was held that HO incurred such expenses as a pure agent and GST shall not be applicable.

M/s Cummins India Ltd (AAAR Maharashtra)

Extension of period of limitation

The period from March 15, 2020 till February 28, 2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or specific laws in respect of all judicial or quasi-judicial proceedings. In the cases where the limitation would have expired during the said period, notwithstanding the actual balance

No automatic recovery towards differences in GSTR-1 and GSTR-3B

Cross charge of salaries by HO required

SC rules on extension of limitation for all judicial / quasi-judicial proceedings

period of limitation remaining, all person shall have a limitation period of 90 days from March 01, 2022.

M/s Shivaji M. Jadhav Adv. & others (Supreme Court of India)

Nexus of inward supply with outward supply

The GST provisions only state the eligibility and conditions for taking ITC. There is no requirement of linking the ITC to any specific outward supply. Therefore, the petitioner does not need to provide one-to-one mapping of inward supply with the outward supply for availment of ITC.

M/s Aristo Bullion Pvt Ltd (AAAR Gujarat)



CORPORATE & ALLIED LAWS

Circulars / Notifications

Higher additional fees on specified forms

The Ministry has issued Companies (Registration Offices and Fees) Amendment Rules, 2022 prescribing higher additional fees for delay in filing specified forms. This shall come into force with effect from July 1, 2022. The specified forms are e-form INC-22 (Notice for change in Registered Office) and e-form PAS-3 (Return of Allotment). If delay in filing has happened on two earlier occasions, then additional fee shall be applicable on all subsequent delayed filings.

Notification No. G.S.R 12 (E)/MCA/2021-22/dated January 11, 2022

Reserve Bank of India

Factoring Regulation Act, 2011 ("the Act") has been amended to widen the scope of companies that can undertake factoring business. As per the revised regulations, all existing non-deposit taking NBFC-Investment and Credit Companies (NBFC-ICCs) with asset size of INR 10 billion and above, will be permitted to undertake factoring business subject to satisfaction of certain conditions. Other NBFC-ICCs can also undertake factoring business by registering as NBFC-Factor.

Press Release 1576/RBI/2021-22/dated January 20, 2022

Higher additional fees for
delay in filings

Amendment of Factoring
Regulation Act, 2011



CFO WATCH

SEBI issues clarification regarding related party disclosures for HVDLEs

ICAI issues revised guidance note on Schedule III of Companies Act, 2013

Related party disclosure requirements for HVDLEs

Disclosure requirements in respect of RPTs notified by SEBI through circular dated November 22, 2021 are applicable to HVDLEs effective April 01, 2022. These include information to be reviewed by the audit committee for approval, information to be provided to shareholders for consideration and format for reporting of RPTs to the stock exchange. HVDLEs are those entities which have an outstanding value of listed non-convertible debt securities of INR 500 crores and above.

Amendments to Listing Regulations

SEBI notifies certain amendments to the Listing Regulations. Key amendments in respect of appointment of directors (Regulation 17) are:

- The listed entity shall ensure that approval of shareholders for appointment of a person on the Board of Directors or as a Manager is taken at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier.
- Appointment or re-appointment of a person, including as MD, WTD or a Manager, who was earlier rejected by the shareholders at a general meeting, shall be done only with 'prior approval' of shareholders.

ICAI issues revised Guidance Note on Schedule III of Companies Act, 2013

The MCA had earlier revised Schedule III to the Companies Act, 2013 in March 2021, introducing additional disclosure requirements in the financial statements to improve governance. Accordingly, ICAI has issued the revised Guidance Note for providing appropriate guidance to Non-Ind AS/ Ind-AS Companies and NBFCs, so that additional/ new requirements of Ind-AS compliance under Schedule III can be duly fulfilled by these companies.

MERGERS & ACQUISITIONS

Indian Auto Companies looking at M&A for future transformation

Despite the slowdown in the auto industry and all the disruptions from chip shortages and COVID-19 challenges, India witnessed lot of partnerships and M&A deals in automobile/auto components industry in 2021. Companies went for acquisitions, not only for growth but for transformation of their businesses as well. Majority of deals were in EVs (charging infra, powertrain), connected vehicle space and new age technology. Changing regulation around ABS, rear view sensors, airbags is also supporting this trend as many Indian companies are trying to acquire or augment these technologies either through M&A or Joint Ventures.

Below are some select M&A deals in automobile industry during 2021

Company 1	Company 2	Deal
Heromoto Corp	Gogoro	Hero MotoCorp tied up with Taiwan-based Gogoro Inc to launch Hero-branded two-wheelers powered by Gogoro's battery sharing infrastructure.
LucasTVS	24M Technologies	The automotive electrical component maker signed an agreement with 24M, developer of next-gen lithium-ion battery, to construct one of the first Gigafactories in India based on Semisolid platform technology.
Minda Corp	EVQPoint Solutions	Minda Corporation Limited, through its 100% subsidiary Spark Minda Green Mobility Solutions entered into definitive agreement to acquire 26% equity stake in charging solutions startup.
Greaves Electric Mobility	ELE	Greaves Electric Mobility, the e-mobility arm of Greaves Cotton Limited announced 100% acquisition of Bestway Agencies Pvt Ltd which sells e-rickshaws.
Reliance BP Mobility	Mahindra Group	The partnership will evaluate charging stations by Jio-bp for Mahindra vehicles.

Source: Economic Times

Way Forward

M&A will be both a catalyst and an opportunity for organisations to increase their size to meet new market demands and strengthen supply chains in a post pandemic world. Companies will be looking at acquiring new electric vehicles and technology across all automotive subsectors. Environment, Social, Governance (ESG) is also likely to play a role with high focus on reduction in emission levels. Lot of start-ups are already working on technologies of future round hydrogen and autonomous vehicles. In near future, traction motors, battery technology, sensors and telematics are few areas where majority of action is expected to take place.

IN THE NEWS



Other Webinars

Audit Documentation During The Pandemic

January 24, 2022

Speaker: Parveen Kumar, National Head, Assurance

Parveen was invited to speak on different issues around the challenges in Audit Documentation during the pandemic and how to overcome them.

Technology As Enabler On Internal Audit

January 1 and 29, 2022

Speakers: Parveen Kumar, National Head, Assurance

Parveen was invited to speak at webinars organized by ICAI on Technology as an Enabler on Internal Audit where he covered the key challenges in internal audits and how technology could help.

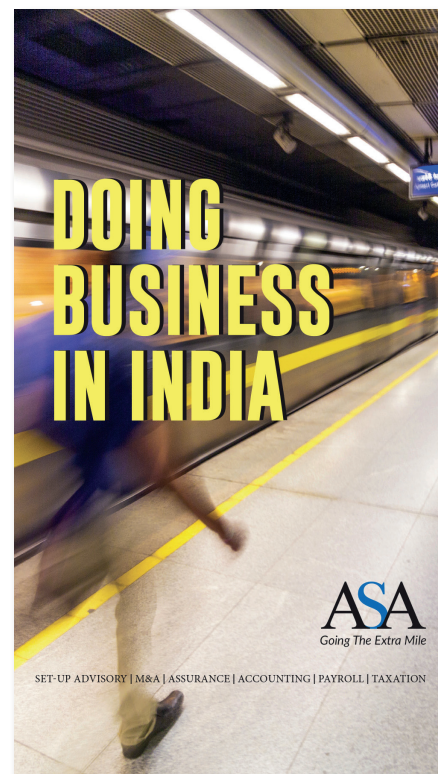
Our Publication

Doing Business In India

January 27, 2022

Authors: Himanshu Srivastava, Partner, Business Advisory, Sundeep Gupta, Partner, Accounting and Business Support & Indirect Tax, Sunil Arora, Partner, Taxation, Kim Collaco, Executive Director, Enterprise Strategy

We launched our “Doing Business In India” publication this month. This publication gives a comprehensive framework of the Indian regulatory environment, especially as applicable for a subsidiary entity of foreign corporates. In addition to the key regulatory issues to be factored in when planning to set up a business in India, this publication also incorporates the landscape and various alternatives of entity structuring and the regulatory impact upon each.



GLOSSARY



AY

Assessment Year

ACIT

Assistant
Commissioner of
Income Tax

CBDT

Central Board of
Direct Taxes

DCF

Discounted Cash
Flow

DCIT

Deputy
Commissioner of
Income Tax

EV

Electric Vehicle

HVDLEs

High Value Debt
Listed Entities

ICAI

Institute of
Chartered
Accountants of India

Ind-AS

Indian Accounting
standards

ITAT

Income Tax
Appellate Tribunal

M&A

Mergers and
Acquisitions

MCA

Ministry of
Corporate Affairs

MD

Managing Director

NBFC

Non-Banking
Financial Company

R&D

Research and
Development

RPT

Related Party
Transaction

SEBI

Securities and
Exchange Board of
India

WTD

Whole Time
Director

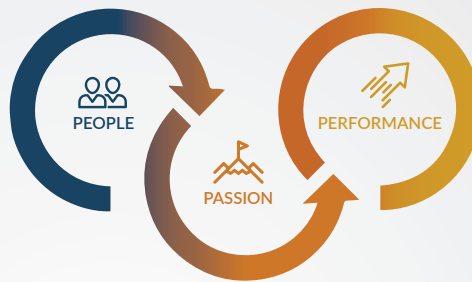
“We value your feedback. Please send us your comments and suggestions at editorial@asa.in”

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**

**35 DIRECTORS
AND ADVISORS**

**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



ASA
Going The Extra Mile

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

Vasavi's MPM Grand
11th Floor, Unit No 1204
Yella Reddy Guda Road, Ameerpet
Hyderabad Telangana 500 073 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

Bhubaneswar, Chandigarh, Pune and
Vishakhapatnam

International Affiliates

Algeria, Argentina, Australia, Austria,
Belgium, Brazil, Bulgaria, Canada, China,
Denmark, Egypt, France, Finland, Germany,
Hong Kong, Hungary, Israel, Italy, Japan,
Luxembourg, Malaysia, Mexico, Morocco,
New Zealand, Netherlands, Norway, Poland,
Portugal, Romania, Saudi Arabia, Singapore,
South Africa, Spain, Switzerland, Sweden,
Thailand, Tunisia, Turkey, UAE, UK, USA,
Vietnam

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.

CIN: U74140DL1996PTC078668