



A Monthly E-Newsletter

Vol 03 Issue 09

September 2022

The Bottom Line

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KEY METRICS

Indices

BSE SENSEX	58,260	1.20% ▲
NSE NIFTY50	17,415	1.50% ▲
NASDAQ Composite	11,973	-3.37% ▼
NIKKEI 225	27,928	0.45% ▲

Currency

USD/INR	79.49	-0.20% ▼
EURO/INR	79.94	1.38% ▲
GBP/INR	96.52	-0.41% ▲
JPY/INR	0.57	4.07% ▲

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



DIRECT TAX

Notifications/Circulars

Timeline to claim FTC extended

CBDT has extended the deadline for filing Form 67 for the purpose of claiming FTC by an Indian resident, effective April 01, 2022. The revised timeline is now till the end of the relevant AY in which the income pertaining to such FTC has been offered to tax, provided that the ROI for such AY has been furnished within the prescribed due dates. Additionally, the taxpayers filing an updated ROI offering additional income to tax, shall also be permitted to claim FTC in respect of such additional income till the date of furnishing the updated ROI.

Notification No. 100 dated August 18, 2022

TCS not applicable to certain non-resident buyers without PE in India

As per the provision of section 206C(1G), every person being an authorized dealer / seller of an overseas tour program package, who receives any amount from a buyer for remittance out of India, is required to collect tax at the rate of 5 per cent on such amount. CBDT has now notified that the TCS provisions under this section shall not be applicable to those non-resident persons who do not have PE in India.

Notification No. 99 dated August 17, 2022

CBDT issues guidelines for proceedings under new reassessment regime

Indicative guidelines have been released for issue of notices and obtaining approval under the new reassessment regime. The guidelines specifically provide

that the show cause notice under section 148A(d), shall accompany all relevant information available with supporting documents based on which reassessment proceedings were initiated. The Order under section 148A(d) shall include a brief of all the evidences/information basis which the opinion of escapement of income is arrived at. This is likely to ensure transparency in the reassessment procedure..

F.No.299/10/2022-Dir (Inv.III)/611 dated August 01, 2022

Judicial Rulings

MAT provisions are not applicable to foreign companies despite having PE in India

The Tribunal ruled that MAT provisions were always intended to be made applicable only in case of domestic companies and not foreign companies as they are not even required to prepare their accounts as per the Companies Act. It clarified that where a specific exemption from MAT is granted to foreign companies not having PE in India, the same cannot be interpreted to mean that other foreign companies are automatically covered within the scope of MAT. Furthermore, MAT provisions cannot apply where tax treaty is invoked.

Credit Suisse AG v. ACIT (Mumbai ITAT)

Notice and Order u/s 148A invalid if allegation is not clearly reflected in the notice

Reassessment proceeding were initiated alleging income escaped assessment on account of bogus business purchases. The assessee contended that alleged purchases

Timeline to claim FTC extended

CBDT issues guidelines for proceedings under the new reassessment regime

Notice and Order u/s 148A invalid if allegation is not clearly reflected

are made from vendors who are registered under GST and the transactions were also reflecting on the GST portal. Further, the allegation of mismatch in the ROI and GST was not mentioned in show cause notice. The Court set aside the notice issued and held that the show cause notice as well as Order were based on distinct and separate grounds and the allegation was also not reflected in the notice.

Best Buildwell Pvt Ltd vs. ITO (Delhi High Court)



INDIRECT TAX

Circulars / Notifications

Applicability of e-invoicing

E-invoicing threshold has been reduced with effect from October 1, 2022 to INR 100 million. All taxpayers having aggregate turnover exceeding this limit in any financial year from 2017-18 till 2021-22, shall now need to comply with e-invoicing provisions.

Notification No. 17/2022-Central Tax dated August 01, 2022

Clarifications on specific disputed issues

Further to the recommendations made by GST Council, key clarifications have been provided on various contentious issues. These cover taxability of sale of developed land and transport of passengers by non-air conditioned contract carriage, difference between renting of motor vehicle and passenger transportation services.

Circular No. 177/10/2022-GST dated August 03, 2022

Taxability of activity involving 'agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act'

Clarificatory circular has been issued to clarify taxability or otherwise of transactions which may be in the nature of agreeing to the obligation to refrain from an act or to tolerate an act or a situation or to do an act. Key principles have been laid down for the determination test, along with examples.

Circular No. 178/10/2022-GST dated August 03, 2022

Guidelines for arrest and bail

The Board has issued guidelines specifying conditions, procedures, formalities and reporting in relation to arrest and bail for offences punishable under the CGST Act, 2017..

Instruction No. 02/2022-23 (GST- Investigation) dated August 17,2022

Procedure for issuance of summons

The Board has issued guidelines for issuance of summons under Section 70 of the CGST Act, 2017 detailing the process and recommending relief for senior management at the first instance.

Instruction No. 03/2022-23 (GST- Investigation) dated August 17,2022

Judicial Rulings

Implementation of electronic generation of DIN

In the larger public interest, for enhancing good governance and bringing in transparency in the indirect tax administration, the Apex Court has directed the Centre and GST Council to issue advisory/ instructions to respective States regarding implementation of system of electronic generation of DIN in indirect tax administration.

M/s Pradeep Goyal (Supreme Court of India)

Quantum of pre-deposit

For preferring an appeal before the appellate authority or filing the writ petition before the High Court, the percentage of pre-deposit should

Threshold for applicability of e-invoicing now INR 100 million

Various clarifications issued on contentious issues

Instructions issued for arrest and bail and issue of summons

be calculated only on the tax amount and not on the entire demand amount i.e. tax plus interest and penalty.

M/s IMAX Infrastructure Pvt Ltd (Calcutta High Court)

Non-submission of Foreign inward Remittance Certificate (FIRC)

Where the petitioner has already submitted the bank realization certificates and other evidence as a proof of receipt of the amount in foreign currency, the refund application cannot be rejected merely on the non-submission of FIRC.

M/s Mavenir Systems Pvt Ltd (Karnataka High Court)

Input tax Credit

The upfront payment of premium for long term lease is nothing but lease rentals paid for the service of 'renting of immovable property.' The said premium is not related to any construction activity but against the rental value calculated for the period of lease and is collected upfront. Hence, it is an admissible credit.

M/s Kamarajar Port Ltd (AAR Tamil Nadu)

CORPORATE & ALLIED LAWS

Circulars / Notifications

Physical verification of the Registered Office of the company made mandatory

Companies (Incorporation) Third Amendment Rules, 2014 have been amended to provide that the ROC must visit the registered address of the company based on the information or documents available. Further, he may also conduct physical verification of the said registered office in the presence of two independent witnesses of the same locality. During such verification, if required, he may seek the assistance of local Police. Pictures must be taken during such verification and then report to be submitted in prescribed format.

Notification dated August 18, 2022



CFO WATCH

SEBI notifies framework for SSE

Additional disclosure requirements in case of maintenance of books of accounts in electronic form

SEBI notifies framework for SSE

SEBI has notified amendments to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. Effective July 25, 2022, the amendments provide an additional avenue to raise funds by social enterprises through SSE. The new regulations lay down the criteria for defining an entity as a social enterprise, covering both not-for-profit and for-profit enterprises.

Sustainability Reporting Standards Board of ICAI has also released an exposure draft on the Social Audit Standards which contain essential procedures and related guidance for the performance of each of the area-specific social audit engagements based on the 16 categories of social activities as specified by SEBI.

Additional requirements in case of maintenance of books of accounts in electronic form

MCA has provided additional requirements in cases where the books of account are to be maintained in electronic mode. The key requirements are:

- i. The books and other relevant papers should be accessible in India at all times
- ii. The back-ups shall be kept in servers physically located in India on a daily basis
- iii. Where the service provider is located outside India, then the name and address of the person in control of the books other relevant papers in India to be disclosed to ROC.

MERGERS & ACQUISITIONS

Potential of Blockchain in M&A

The process to initiate and complete a M&A transaction is a complex activity and can be very time consuming. With emerging technologies and digital solutions, there have been discussions around use of technology in executing M&A transactions. Blockchain and AI as technology can be used across the whole bandwidth of the M&A process, starting by identifying suitable targets, through all stages of the due diligence into post-merger integration.

Blockchain, as a digital technology, poses an immense opportunity to optimise the M&A space by making it more efficient and cost effective as it can automatically record and verify transactions on a real-time basis. It can be used in due diligence as it offers a digitally shared database that cannot be tampered with. This database could be used to create permanent and unalterable record of information disclosed during due diligence, thus increasing data connectivity.

Furthermore, Smart Contracts, another potential application of blockchain technology, is a piece of code that automatically executes transactions based on predefined business criteria. During settlement, the purchaser transfers the purchase price, and the seller transfers the object of contract. Financial transactions realized via blockchain technology can be executed within seconds and without any classical financial intermediary. Smart Contracts can generate intelligent earnouts. Based on the earn-out provisions, Smart Contract payments can be automated, allowing automatic payments to be triggered as soon as the linked condition is fulfilled.

As time passes, blockchain-enabled technology will have profound impact on the entire M&A process. However, it also presents an existential challenge as it will change the stakeholder landscape, shift value propositions and democratize the way the M&A market operates and is governed.



IN THE NEWS



Seminars

Simplifying Doing Business in India - August 30, 2022

Speaker: Ajay Sethi, Managing Partner

Ajay was invited by the Professionals in International Trade and their partner Newland Global Group as a speaker for a leading event 'Simplifying Doing Business in India'. The discussions were focused on the current trade relationships between Australia and India, along with some pragmatic presentations by business leaders on compliance to expand your business in India.

Practical Insights on Agreed Upon Procedures and Compilation Engagements - August 01, 2022

Speaker: Nitin Gupta, Executive Partner, Assurance

Nitin was invited to speak at a webinar organized by ICAI on 'Practical Insights on Agreed

Upon Procedures and Compilation Engagements'.

Address Newly Qualified Chartered Accountants - August 07, 2022

Speaker: Gaurav Bhatia, Executive Partner, Assurance

Gaurav was invited as a speaker by the Agra Branch of ICAI to address the newly qualified Chartered Accountants of Agra.

Audit Quality – A Key Pillar of Corporate Governance

- August 26, 2022

Speaker: GN Ramaswami, Partner, Assurance

GNR was invited as a panelist by ICAI on 'Audit Quality – A Key Pillar of Corporate Governance' where he shared his thoughts on the topics of Loans & Advances and Share Capital & Reserves.



GLOSSARY



AI
Artificial Intelligence

AY
Assessment Year

CBDT
Central Board of Direct Taxes

DIN
Document Identification Number

FTC
Foreign Tax Credit

GST
Goods and Services Tax

ICAI
Institute of Chartered Accountants of India

M&A
Mergers & Acquisitions

MAT
Minimum Alternative Tax

MCA
Ministry of Corporate Affairs

PE
Permanent Establishment

RBI
Reserve Bank of India

ICAI
Institute of Chartered Accountants of India

ROC
Registrar of Companies

ROI
Return of Income

SEBI
Securities and Exchange Board of India

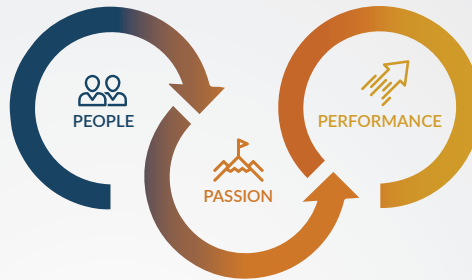
SSE
Social Stock Exchange

TCS
Tax Collected at Source

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ABOUT US

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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.



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 Vishakhapatnam

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