

# NewsBites

Thirty Seventh Edition

Greetings!

We are delighted to present our news bite for the month of April 2021. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, company law, government incentives, FEMA and other regulatory laws.

We hope you find this useful. For any feedback you can reach to us at [info@sanca.in](mailto:info@sanca.in).

Best Regards,  
S A N & CO.  
Chartered Accountants

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# Income Tax

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## Extension of time-lines related to certain compliances by the Taxpayers under the Income-tax Act 1961:

1. In view of severe pandemic, the Central Board of Direct Taxes, in exercise of its powers under Section 119 of the Income-tax Act, 1961, provides following relaxation in respect of Income-tax compliances by the taxpayers:

- a. Filing of belated return under sub-section (4) and revised return under sub-section (5) of Section 139 of the Income-tax Act, 1961 for Assessment Year 2020-21, which was required to be filed on or before 31st March 2021, may be filed on or before 31st May 2021;
- b. Appeal to Commissioner (Appeals) under Chapter XX of the Income-tax Act, 1961 for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021, whichever is later;
- c. Objections to Dispute Resolution Panel (DRP) under Section 144C of the Income-tax Act, 1961, for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021, whichever is later;
- d. Income-tax return in response to notice under Section 148 (Income escaping assessment or reassessment) of the Income-tax Act, 1961, for which the last date of filing of return of income under the said notice is 1st April 2021 or thereafter, may be filed within the time allowed under that notice or by 31st May 2021, whichever is later.
- e. Payment of tax deducted under Section 194-IA (TDS on purchase of property which is applicable when the value of property is in excess of Rs.50 lacs), Section 194-IB (TDS on rent of residential property by Individual or HUF which is applicable when the rent is in excess of Rs.50 thousand per month) and Section 194M (TDS on payment to resident contractor & professional by Individual or HUF which is applicable when the payment exceeds Rs.50 lacs during the year) of the Income-tax Act, 1961 and filing of challan-cum-statement for such tax deducted, which are required to be paid and furnished by 30th April 2021 under Rule 30 of the Income-tax Rules, 1962, may be paid and furnished on or before 31st May 2021;
- f. Statement in Form No. 61, containing particulars of declarations received in Form No.60, which is due to be furnished on or before 30th April 2021, may be furnished on or before 31st May 2021.

Rule 114B specifies certain transactions for which quoting of PAN is mandatory. In case a person does not have a PAN and who enters any such transaction is required to file a declaration in Form 60. Every entity who receives such Form 60 is required to file a statement in Form 61 containing particulars of declarations received in such Form 60.



# Goods & Services Tax

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## Relaxations to complete statutory and regulatory compliance in GST law:

Due to the outbreak of second wave of COVID-19, many challenges faced by the taxpayer to complete statutory and regulatory compliances regarding GST law.

To provide relief from such situation the Government has issued following notifications, all dated 1st May, 2021.

### 1. Rate of Interest reduced:

Concessional rate of interest has been prescribed for registered person for tax period March 2021 and April 2021 which is payable in April 2021 & May 2021 respectively.

Taxpayer	Turnover Limit	Time limit	Rate of Interest
Registered Person	More than Rs. 5 Crore	For first 15 days from due date of payment of tax	9%
Registered Person	More than Rs. 5 Crore	After first 15 days	18%
Registered Person for both normal taxpayer and QRMP scheme	Less than Rs. 5 Crore	For first 15 days from due date of payment of tax	NIL
Registered Person for both normal taxpayer and QRMP scheme	Less than Rs. 5 Crore	For the next 15 days	9%
Registered Person for both normal taxpayer and QRMP scheme	Less than Rs. 5 Crore	After 30 days	18%

### 2. Waiver of late fee

Late fee waived for registered person in respect of returns in FORM GSTR 3B furnished beyond the due date for tax period March 2021 and April 2021 as follows:

Taxpayer	Turnover Limit	Time limit	Due
Registered Person	More than Rs. 5 Crore	15 days	April 2021 & May 2021 respectively
Registered Person (Monthly)	Up to Rs.5 crore	30 days	April 2021 & May 2021 respectively
Registered Person (QRMP scheme)	Up to Rs. 5 crore	30 days	April 2021 for the period Jan – March 2021

### 3. Extensions of due dates

Forms	For the period	Due in	Extensions
GSTR 1 and IFF	April 2021	May 2021	By 15 days
GSTR-4	FY 2020-2021	30th April 2021	31st May 2021
ITC 04	Jan-March 2021	25th April 2021	31st May 2021

### 4. Amendments in CGST Rules

Relaxations in availment of ITC: As per Rule 36(4) 105% cap would be applicable in the return for tax period May 2021 on cumulative basis for the period April 2021 and May 2021 for availment of ITC in FORM GSTR 3B.



# Goods & Services Tax

The filing of GSTR-3B and GSTR-1/IFF by companies using electronic verification code has been enabled for the period from 27.04.2021 to 31.05.2021.

## 5. Extensions in statutory time limit under section 168A of CGST Act:

Time limit for completion of various action, by any authorities or by any person under the GST Act has been extended up to 31st May 2021 for the period 15th April 2021 to 30th May 2021.

## Claiming Input Tax Credit in relation to CGST-SGST through separately debit notes issued by the supplier in current financial year for the prior period transactions:

The provisions of amended sub-section (4) of Section 16 of the CGST Act, 2017 (amended with effect from January 01, 2021), the input tax credit can be claimed only in respect of debit notes as follows:

- On or before the due date of furnishing of return under section 39 for the month of September following the end of said financial year,

OR

- Furnishing the relevant annual return, whichever is earlier.

## Implementation of PMT-03 to re-credit the ITC sanctioned as refund:

- As per Notification No. 16/2020-Central Tax dated March 23, 2020 vide which sub-Rule (4A) has been inserted in Rule 86 of the CGST Rules, 2017 and Para 4 of the Circular No 135/05/2020 dated March 31, 2020, the procedure for refund of tax paid on supplies, other than zero rated supplies was provided as follows:

- A tax payer is entitled to refund of tax wrongly paid or paid in excess (other than zero rated supplies), in the same mode by which the tax liability was discharged, i.e., if the tax was paid by partly debiting the credit ledger and partly debiting the cash ledger, the refund shall be sanctioned in the same proportion. The cash part has to be sanctioned and credited to the bank account of the tax payer by issuance of RFD-05 and the credit part should be re-credited to the electronic credit ledger of the tax payer through PMT-03.
- A new enhanced PMT-03 functionality has been developed and deployed in the system. This new functionality is applicable only to the following 4 types of refund as provided in the referred circular.
  - i. Refund of excess payment of tax;
  - ii. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;
  - iii. Refund on account of assessment/provisional assessment/appeal/any other order; and
  - iv. Refund on account of "any other" ground or reason.

## Refund of CENVAT Credit being legitimate export incentive given to exporters can't be denied merely because of implementation of GST: Madras High Court

- As per Madras High Court ruling dated March 29, 2021, refund of CENVAT credit under Rule 5 of CENVAT Rules 2004 read with Notification No.27/2012-CE (NT) dated June 18, 2012 is a legitimate export incentive given to an exporter of service and goods. Therefore, such legitimate export incentive given to exporters of goods or service cannot be denied merely because of intervening changes with the implementation of GST with effect from July 1, 2017.



# THE COMPANIES

# THE COMPANIES ACT, 2013

## Spending of CSR funds for setting up makeshift hospitals and temporary covid care facilities is allowed:

MCA vide general circular no. 05/2021 dated April 22, 2021 has clarified that spending of CSR funds for setting up makeshift hospitals and temporary covid care facilities is an eligible CSR activity covered under Schedule VII of the Companies Act relating to promotion of health care including preventive health care and disaster management respectively.

Therefore, the companies may undertake the aforesaid activities in consultation with State Government subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the circulars related to CSR issued by Ministry from time to time.

## Several relaxations in lieu of Covid-19 Pandemic:

### I. Relaxation on levy of additional fees in filing of certain forms under the Companies Act, 2013 and LLP Act, 2008:

MCA vide general circular no. 06/2021 dated May 03, 2021 has allowed additional time up to July 31, 2021 for Companies/LLP's to file such forms (other than E-form CHG-1, CHG-4 and CHG-9) without any additional fees.

Therefore, no additional fees will be levied up to July 31, 2021 for the delayed filing of e-forms (other than charge related mentioned above) which were / would be due for filing during April 01, 2021 to May 31, 2021. For such delayed filing up to July 31, 2021 only normal fees shall be payable.

### 2. Relaxation of time for filing forms related to creation or modification of charge under the Companies Act, 2013:

MCA vide general circular no. 07/2021 dated May 03, 2021 has allowed relaxation of time for filling of e-forms related to creation or modification of charge.

#### I. Applicability: This circular shall be applicable in respect of filing of Form CHG-1 and Form CHG-9 by a company or charge holder, where date of creation and modification of charge:

- a. Is before April 01, 2021, but the timeline for filling such form had not expired under the Act as on April 01, 2021; or
- b. Falls any date between April 01, 2021 to May 31, 2021.

#### II. Relaxation of time:

- a. In case a form is filled under para I(a) above, the period between April 01, 2021 to May 31, 2021 shall not be considered in counting number of days under the Act. Further if form is not filled within such time, then first day after March 31, 2021 shall be considered as June 01, 2021 for the purpose of counting number of days under the Act.
- b. In case a form is filled under para I(b) above, the period from creation or modification of charge till May 31, 2021 shall not be considered in counting number of days under the Act. Further if form is not filled within such time, then first day after March 31, 2021 shall be considered as June 01, 2021 for the purpose of counting number of days under the Act.



# THE COMPANIES ACT, 2013

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## III. Applicable fees:

- a. In regard to para II(a) above, if form is filed on or before May 31, 2021, the fees payable as on March 31, 2021 for the said form shall be levied. If form filed thereafter, then fees charged as on March 31, 2021 plus fees for number of days lapse from June 01, 2021 to date of filing will be added.
- b. In regard to para II(b) above, if form is filed on or before May 31, 2021, normal fees shall be payable for the said form. If form filed thereafter, then normal fees plus fees charged for number of days lapse from June 01, 2021 to date of filing will be charged.

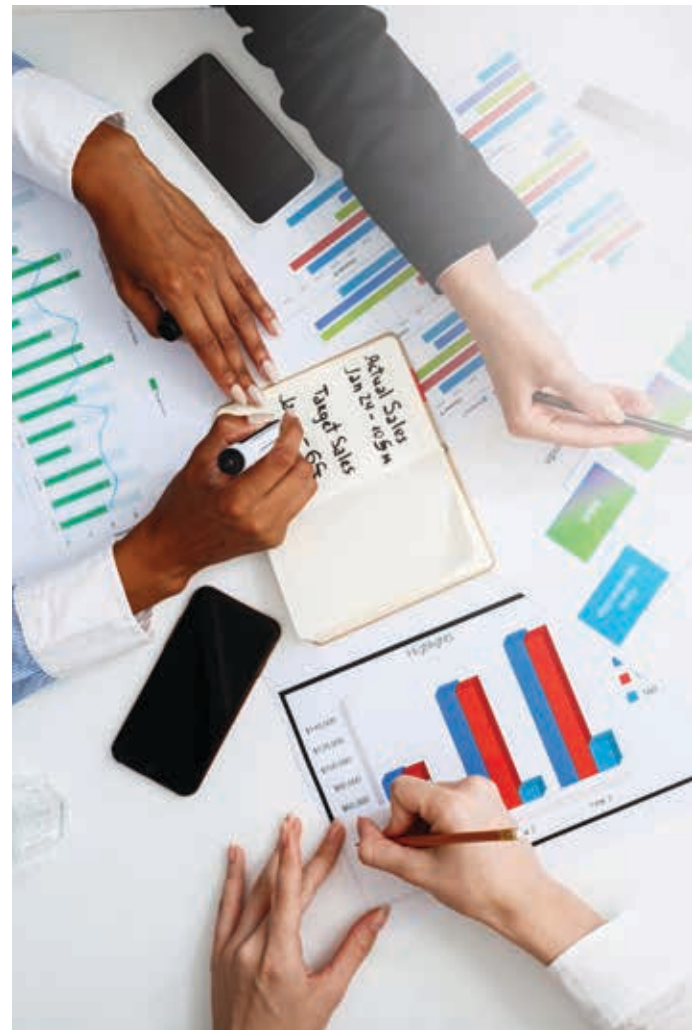
## IV. Circular not applicable to following:

- a. Form CHG-1 and CHG-9 filed before the issue of this circular;
- b. Timelines for filing these forms have already expired before April 01, 2021;
- c. Form CHG-4 for satisfaction of charge.

## 3. Relaxation in gap between two board meeting in Quarter I & II of 2021-22:

MCA vide general circular no. 08/2021 dated May 03, 2021 decides regarding the requirement of holding board meeting within an interval of not more than 120 days shall extend by a period of 60 days.

Accordingly, the gap between two consecutive board meetings may extend up to 180 days during the Quarter – April to June 2021 and Quarter – July to September 2021.







# INSOLVENCY AND INSOLVENCY AND BANKRUPTCY CODE

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## Pre-pack or pre-packaged insolvency resolution plan:

Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 has come into force after it received President's approval, which is as follows:

1. A pre-pack or pre-packaged deal is a kind of restructuring plan which is agreed to by the debtor and its creditors prior to the insolvency filing and then sanctioned by the court on an expedited basis. This will allow creditors and debtors to work on an informal plan and then submit it for approval.
2. The incumbent management typically retains control until the final agreement is agreed upon.
3. This process is formed aiming a faster resolution of distressed firms.
4. Compared to a regular corporate insolvency resolution, this process of pre-packs has an advantage of being a more informal process and the possibility of closure in a shorter period of time.
5. It was considered necessary to provide an efficient alternative insolvency resolution process for corporate persons classified as micro, small and medium enterprises under the Insolvency and Bankruptcy Code, 2016, ensuring quicker, cost-effective, and value-maximizing outcomes for all the stakeholders.
6. The pre-packaged insolvency resolution process shall be completed within a period of one hundred and twenty days from the pre-packaged insolvency commencement date.
7. The corporate debtor shall remain under the control and possession of the current promoters and management during the pre-pack process.

## Process of pre-pack or pre-packaged insolvency resolution:

1. MCA has notified Insolvency and Bankruptcy (Pre-Packaged Insolvency Resolution Process) Rules, 2021 which shall come into force with effect from April 09, 2021 which deals with the complete process of pre-packaged insolvency resolution process.
2. A corporate applicant shall make an application for initiating pre-packaged insolvency resolution in Form 1, accompanied with an affidavit, documents or records in electronic form, along with a fee of Rs. 15,000/- (Rupees Fifteen Thousand only).
3. Further in case, the electronic facility is not available for filing such application, the application and the accompanying documents maybe filed in physical form.
4. The corporate applicant shall serve a copy of the application to the Board by registered post or speed post or by hand or by electronic means, before filing it with the Adjudicating Authority and shall also, inform the Adjudicating Authority about the filing of any winding up petition against the corporate debtor after becoming aware of such filing.
5. Thereafter the Adjudicating authority shall within a period of fourteen days of the receipt of the application, by an order either:
  - a. Admit the application, if it is complete; or
  - b. Reject the application, if it is incomplete.
6. The pre-packaged insolvency resolution process shall be completed within a period of one hundred and twenty days from the pre-packaged insolvency commencement date.

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You may use any of the following means to connect with us:

CA Sachin Shinde	+91 98906 49497	sachin.shinde@sanca.in
CA Anil Shinde	+91 97660 37816	anil.shinde@sanca.in
CS Manisha Lalwani	+91 89595 05955	manisha.lalwani@sanca.in

### Office Address:

### SAN & CO. Chartered Accountants

B/38, 3rd Floor, Aamod Apartments,  
Opp. Police Ground, Behind Hotel Shravan,  
F.C. Road, Shivajinagar, Pune 411016  
Maharashtra, India  
+91 80870 70205 | +91 80870 70476 | +91 80877 00477  
Web: [www.sanca.in](http://www.sanca.in)

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