

NewsBites

Twenty-First Edition

Greetings!

We are delighted to present our news bites for the month of December, 2019. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, audit and assurance, GST and Secretarial Compliances in the industry.

We hope you find this useful.

For any feedback you can reach to us at info@sanca.in

Best Regards,
S A N & CO.
Chartered Accountants

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Income Tax

Income tax department gives more time to reply to income tax notice:

- The income tax department has extended the time limit for filing of response to notices under section 142(1)
- Taxpayers are normally required to reply to income tax notice within 15 days

The income tax department has extended the time limit for filing of response to income tax notices issued under notices under Section 142(1) till January 10 for those who received notice before 24.12.2019.

“With a view to provide relief to the taxpayers and tax professionals and to facilitate the compliance with respect to e-Assessment proceedings under E-assessment Scheme, 2019, the time limit for filing of response to notices under section 142(1) of the Income-tax Act issued up to 24.12.2019 by the National e-Assessment Centre is extended up to 10.01.2020 or time given in such notices, whichever is later,” a notification issued by the Central Board of Direct Taxes (CBDT) read.

Recent Rulings:

Expenses incurred on travel of wives & children of directors who accompanied him on various foreign trips not allowable

IN THE ITAT DELHI BENCH ‘B’Emmons International Ltd. v. Assistant Commissioner of Income Tax

IT APPEAL NO. 4603 (DELHI) OF 2019

[ASSESSMENT YEAR 2012-13] OCTOBER 14, 2019

FACTS

- For relevant year, the assessee claimed foreign travel expenses incurred on account of foreign travel of its directors and their family members.
- The Assessing Officer did not find any justification in respect of the expenses incurred in respect of certain family members of the directors disallowed same.
- The Commissioner (Appeals) confirmed said disallowance.

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- It is an undisputed fact that not only the wives of the directors, but the minor children had also travelled and such expenditure is also included in the claim made by the assessee. Besides these people, some overseas employees also travelled with their wives. The assessee failed to explain what the commercial expediency was involved in this travel by such people and what business purpose that was served by the travel of minor children of the directors or management trainees or the overseas employees and their wives. [Para 21]
- It is well settled that the expenses not only proved to have been incurred, but they must also stand to the test of commercial expediency. [Para 23]

HC upheld initiation of prosecution proceedings as assessee failed to produce evidence of submitting TDS to Govt.

HIGH COURT OF KARNATAKA Dr. Viloo Patell v. Income Tax Department

WRIT PETITION NO. 47514 OF 2017(GM-RES)
SEPTEMBER 6, 2019.

- Where assessee i.e. Managing Director of 'A' Group of Companies was sought to be prosecuted under section 276B for failure to remit tax deducted at source, in view of fact that a notice was issued to assessee to convey intention of department to treat him as Principal Officer of 'A' Group of companies and, moreover, assessee failed to bring on record any proof showing that amount in question was paid to department after issuance of show-cause notice, there was no infirmity in prosecution proceedings launched against assessee.

FACTS

- The assessee i.e., Managing Director of 'A' Group of companies was sought to be prosecuted under section 276B for failure to remit the tax deducted at source.
- First, the show-cause notice was issued in respect of nine companies whereas the prosecution was launched only against the assessee which was legally untenable.
- Second, the show cause-notice was issued only to assessee i.e., Managing Director and not to the company i.e. petitioner No. 2 and in that view also, the prosecution launched against the assessee was defective and contrary to section 276B of the Act.
- Third, the impugned sanction in the instant case had been accorded without application of mind. Tax deducted at source was remitted much earlier to the issuance of sanction order, which fact was not reflected in the sanction order indicating that the sanction order had been issued without application of mind and on said score also, the impugned proceedings were liable to be quashed.

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- None of the contentions urged by the assessee can be accepted as the notice issued was not the show cause notice but it was a notice which was issued to 'V' i.e. the chairman & 'Managing Director' of A Group companies.
- The second contention urged by the assessee also can't be accepted, a joint notice was the order passed under section 201(1) and 201(1A) makes it evident that the order was passed only against the petitioner No. 2 - Company and not against all the companies as contented by the assessee. Therefore, even this plea is liable to be rejected.
- Coming to the next contention, sanction letter issued for prosecution of assessee does not reflect application of mind, Commissioner Sanctioning authority has stated the facts of the case as well as provisions of law applicable to the facts. It was also stated that the assessee in default was given an opportunity to make the payment.
- Further if any amount was paid pursuant to the said show-cause notice, the proof thereof could have been produced by assessee to avoid criminal prosecution. There is nothing on record to show that the remittances made by the assessee have been brought to the notice of the Central Government. Therefore, as the sanction order does not reflect any error warranting interference by the Court. Hence, this argument is also rejected.



Goods & Services Tax

Highlights of 38th GST Council Meeting:

1. Due dates extended for GSTR-9 and GSTR-9C for FY 2017-18 till 31 January 2020:

The due date of GSTR-9 and GSTR-9C are extended further till 31 January 2020 from the earlier date of 31 December 2019. It was done to allow more time for taxpayers to use the offline tool of GSTR-9C that is expected to be made available on 21 December 2019.

2. Provisional ITC claim in GSTR-3B further restricted:

The amount of ITC availed on a provisional basis restricted to 10% from the earlier 20%, where invoices or debit notes are not reflected in GSTR-2A. Hence, invoice matching must be frequently done and vendor communication becomes challenging.

3. Late fee waiver on GSTR-1 through amnesty scheme:

Waiver of late fee for GSTR-1 for tax periods between Jul. 17 and Nov 19, if filed by 10 January 2020. If the taxpayer does not still file for more than two consecutive tax periods, then e-way bills of such taxpayer will be blocked from generation.

4. GST Rate rationalized to remove inverted tax structure:

The GST Council imposes a uniform rate of 18% from earlier 12% on bags belonging to HSN code 1923/6305 from 1 January 2020 (woven and non-woven bags and sacks of polythene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods including FIBC). It effectively removes the inverted tax structure.

5. GST exemption for the industrial land developers:

Supply should be a long-term lease of an industrial or financial infrastructure plots. The Central or State Government holds 20% or more shares in the developer's capital from the earlier share of at least 50%. Exemption to apply from 1 January 2020.

6. The GST Council decided to levy 28% tax on all lotteries:

- Opts for voting to conclude the matter
- Date of applicability is 1 March 2020
- Prior, GST rates on lottery schemes were as follows:
 - (a) State-owned – 12%
 - (b) State-authorized – 28%

7. Other Decisions:

Amendments to the GST law to be taken up in the Union Budget 2020-21. Several thoughts deliberated on GST revenue augmentation. Grievance Redressal Committees (GRC) will be constituted at Zonal/State level to address grievances of specific / general nature of taxpayers.



GSTN makes key GST statistics available on GST portal

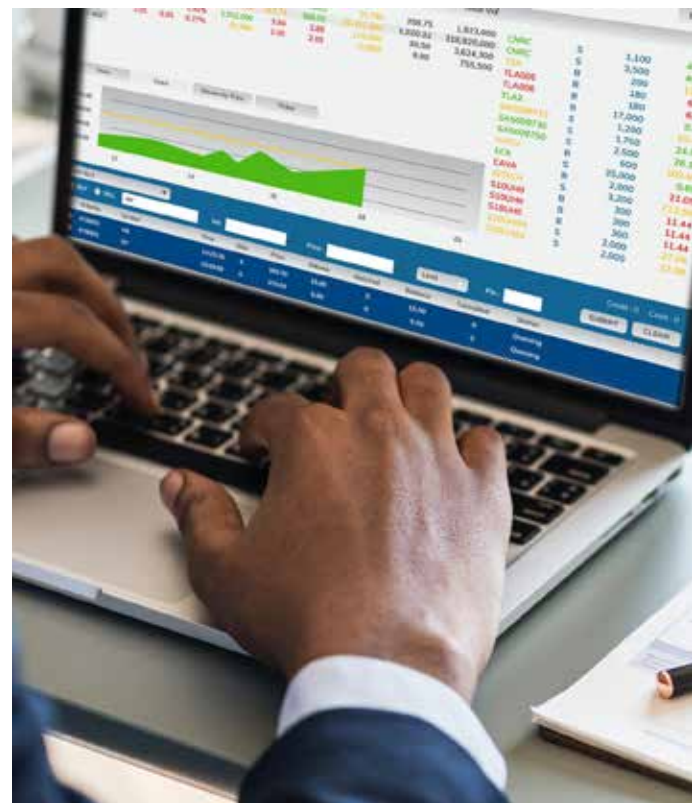
From the New Year 2020, you will be able to view and download key Goods and Services (GST) statistics from the GST portal. GST Network (GSTN), the IT backbone of GST system, has uploaded the key statistics in the GST portal which is now in the public domain. This includes the state-wise data of active registrations, state-wise and year-wise key returns and revenue collection.

Following statistics are available in the GST portal under the Downloads section:

1. Registration type-wise Taxpayer base (active taxpayers as on 30th November 2019).
2. State-wise and Month-wise GSTR-3B and GSTR-1 filing summary for the return period July 2017 to October 2019.
3. State-wise and Month-wise revenue collection on GST Portal.
4. Month-wise revenue collection of IGST on Import on Customs Portal.
5. State-wise and Month-wise settlement of IGST to States/Union Territories.
6. State-wise and Year-wise Pre-GST regime revenue from taxes subsumed in GST.

The data available on the portal is in downloadable form and will be updated on a monthly basis. Presently, all the data is in Excel format, however the same will be made available in interactive graphical format soon for ease of Communication.

The data is available for everyone irrespective if a user is a taxpayer or not. The move will enable people to analyze the indirect tax data, which is available now for the whole country at one place for the first time.



The Companies Act, 2013

No more stamp duty waivers on transfer of securities and mutual fund units in dematerialized form:

- The Ministry of Finance (MOF) has notified the Indian Stamp (Collection of Stamp duty through Stock Exchanges, Clearing corporations and Depositories) Rules, 2019 which shall come into effect with effect from 09th January, 2020.
- Government defined collecting agents like stock exchange, clearing corporation or a depository shall be authorized for collecting the stamp duty on behalf of State Government in case of issue or transfer of securities in demat form.
- The stamp duty leviable under Section 9A(1) of the Stamp Act on issue and sale of securities shall be collected by the authorized collecting agents in the manner prescribed under the Rules on the specified transactions and on prescribed value.
- Accordingly, the transferor shall pay the stamp duty on the consideration specified by him in the delivery instruction slip and such consideration shall be considered as actual consideration amount.
- The stamp duty shall be collected on the entire sale consideration when a transfer is affected irrespective of the consideration paid in part or in instalments.

NCLT Judgement:

1. Restoration of Cyrus Mistry as Executive Chairman of Tata Group

- I. The NCLT declared the proceedings of the sixth meeting of the Board of Directors of 'Tata Sons Limited' held on Monday, 24th October, 2016 so far as it relates to removal and other actions taken against Mr. Cyrus Pallonji Mistry as illegal and is set aside. In the result, Mr. Cyrus Pallonji Mistry is restored to his original position as Executive Chairman of 'Tata Sons Limited' and consequently as Director of the 'Tata Companies' for rest of the tenure.
 - II. NCLT further suggest that the removal of Mr. Cyrus Pallonji Mistry had nothing to do with any lack of performance as his performance was well appraised by the "Nomination and Remuneration Committee" just few months before his removal.
 - III. Further the appointment of "Executive Chairman" in the place of Mr. Cyrus Pallonji Mistry is declared as illegal.
 - IV. The decision of the Registrar of Companies changing the Company ('Tata Sons Limited') from 'Public Company' to 'Private Company' is declared illegal and set aside as provisions of Section 14 of the Companies Act, 2013 were not followed properly. The Company ('Tata Sons Limited') shall be recorded as 'Public Company'. The 'Registrar of Companies' will make correction in its record showing the Company ('Tata Sons Limited') as 'Public Company'.
2. Further Roc has made a plea regarding NCLT's observation on Tata Sons' conversion into Private Co. as illegal. Tribunal says ROC must explain the rationale behind allowing Tata Sons to convert from a Public co. to Private co. and also must explain the due process that was followed in allowing such conversion.



MCA has granted relaxation of additional fees and extension of last date to file following form:

- Form CRA (Cost Audit Report) – Extended till 29/02/2020.
- Form BEN -2 (Significant Beneficial Ownership) – Extended till 31/03/2020.

Statutory Compliance required to be adhered to:



SR. No	Form	Due Date	Description
1	E-Form INC-20A	Within 6 months of Incorporation	Declaration for commencement of business
2	E-Form BEN-2	March 31, 2020	Declaration regarding Beneficial Owners

RESERVE BANK OF INDIA

National Electronic Fund Transfer (NEFT):

- RBI has announced to make the NEFT system available on a 24*7 basis with effect from December 16, 2019 which means the stakeholder would be able to send and receive money anytime through the National Electronic Fund Transfer (NEFT) system on a 24*7 basis.
- Further RBI with an intent to promote Digital payments has announced to waive charges for all online National Electronic Fund Transfer (NEFT) with effect from January 01, 2019 i.e. Member bank shall not levy any charges from their saving bank account holders for fund transfer done through NEFT system initiated online through internet banking or mobile application of the bank.
- Therefore, now one can transfer money online using the NEFT system 24*7 i.e. any time of the day and any day of the week and with zero charges.

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