

# NewsBites

Twenty-Third Edition

Greetings!

We are delighted to present our news bite for the month of February 2020. 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](mailto:info@sanca.in).

Best Regards,  
S A N & CO.  
Chartered Accountants

## Contents

### Income Tax

1. Important tax dates in the month of March 2020 .....	2
2. Vivad se vishwas scheme 2020 .....	2
3. Important case laws .....	4

### Goods & Service Tax

1. What is the new GST return system .....	5
2. Types of taxpayers under new GST return system .....	5
3. Types of new GST returns.....	5
4. Forms to be filled under the new GST return system.....	6
5. Changing return type and filling frequency during the year .....	6
6. Important changes introduced in the new GST return system...	6

### The Companies Act

1. Companies (Auditor's Report) Order, 2020 .....	7
2. India's ease of doing business (EODB) initiatives .....	8
3. LLP settlement scheme 2020 .....	8
4. SEBI Puts off the Deadline for Splitting duties of Chairperson and Managing Director by two years .....	9

# Income Tax

## Important tax dates in the March 2020

March is an important month. Not only does the financial year end in March, but you will also have to complete your tax-saving exercise and file your belated/revised income tax return (ITR) by March 31.

- **March 15:** You have to deposit the **fourth instalment of advance tax (if you are liable to pay any)** for FY 2019-20. It is also the due date for making payment of advance tax by those individuals who are covered under the presumptive taxation scheme under sections 44AD and 44ADA.
- **March 31:** Is the **last date of filing belated or revised return for FY 2018-19**. Remember, if this deadline is missed, you will not be able to file ITR for FY2018-19.

## Vivad se Vishwas Scheme 2020

### Last date to opt for this scheme is March 31, 2020

In **Union Budget 2020**, a similar scheme to settle disputes in Direct Taxes is proposed to be introduced and accordingly **“THE DIRECT TAX VIVAD SE VISHWAS BILL, 2020”**, a bill to provide for resolution of disputed tax has been introduced by the Union Finance Minister on 4th February 2020.

### Brief about the scheme:

- **What is the Scheme:**

Vivad Se Vishwas would be introduced which would ensure settlement of cases pending before any of the appellate forums. This announcement was in line with the Government's measure to fast track the disposal of old pending appeals by March, 2020.

- **Who is eligible and What it means for Taxpayer :**

Taxpayers whose appeals are pending before CIT(A)/ITAT/High Court/Supreme Court as on 31-01-2020 will be eligible to opt for this Scheme.

- **Appeal for Tax Matters:**

If the Taxpayer opts for this Scheme and pays the Tax Amount disputed in the appeal on or before 31-03-2020, he will get complete waiver from payment of interest, penalty and initiation of Prosecution.

If the Taxpayer opts for this Scheme but pays the Tax amount disputed in appeal after 31-03-2020, it will be required to pay an additional charge of 10% of the Tax. However, this additional charge of 10% will be restricted to the amount of Interest charged.

Situation	Amount Payable	Benefits	Requirements
Taxpayer makes payment on or before 31-03-2020	100% of Tax Amount	No Interest, Penalty and Prosecution	Declaration before CIT or higher authority
Taxpayer makes payment after 31-03-2020	100% of Tax Amount + 10 % of Tax Amount but restricted to Interest charged	No Penalty, Prosecution and Interest waiver to the extent it exceeds 10% of the Tax Amount	Declaration before CIT or higher authority



• **Appeal for Penalty/Interest/Other Fees Matter:**

Where the Assessee has no pending appeal for the Tax amount as on 31-01-2020, but the appeal for penalty/interest/fees on such Tax Amount or any other appeal for penalty/interest/fees is pending as on 31-01-2020, the Taxpayer can opt for this Scheme in case of such pending appeals.

The above relief in case of penalty/interest/fees shall be available only if the Taxpayer makes the Declaration before the CIT or a higher authority as may be prescribed.

• **Who is not eligible:**

(20) The Scheme is not available to Tax Arrears pertaining to:

- Assessment made u/s 153A and 153C
- A case where prosecution has been initiated before filing of Declaration
- Undisclosed foreign asset or undisclosed foreign income
- Assessment/Reassessment made consequent to exchange of information u/s 90 or 90A
- A case where notice for enhancement has been received from the CIT(A) on or before 31-01-2020.

Situation	Amount Payable	Benefits	Requirements
Taxpayer makes payment on or before 31-03-2020	25% of penalty/ interest/ other fees	Complete waiver of 75% of penalty/ interest/ fees	Declaration before CIT or higher authority
Taxpayer makes payment after 31-03-2020	30% of penalty/ interest/ other fees	Complete waiver of 70% of penalty/ interest/ fees	Declaration before CIT or higher authority



# Income Income Tax

## Important case Laws

### **No addition towards notional rent if property remained vacant due to obstruction caused by ongoing metro project**

T(2020) 114 taxmann.com 180 (Mumbai - Trib.) IN THE ITAT MUMBAI BENCH 'SMC' Empire Capital (P.) Ltd.

v.

Assistant Commissioner of Income-tax, Circle 2(1)(2), Mumbai\*

The brief facts germane to the present appeal are: The assessee owns a property situated at Anna Salai, Chennai. In the return of income for the impugned assessment year the assessee did not disclose any rental income from the aforesaid property. During the assessment proceedings the assessee explained that since the property was lying vacant during the relevant period, no rental income was disclosed. The Assessing Officer estimated rental income of the property at 6% of the capital value and made addition of Rs. 11,37,878/- as notional rent. Aggrieved against the assessment order dated 29/12/2016, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee and confirmed the addition.

Assessee referred the case before the Tribunal against the findings of CIT(A)

It was held that the assessee in appeal has assailed the addition of Rs. 11,37,878/- on account of notional rent in respect of vacant property. It is an undisputed fact that the property of the assessee at Anna Salai, Chennai was let out in the past and the rental income from the said property was offered to tax by the assessee under the head, 'Income from House Property'. It was during the period relevant to assessment year under appeal that the property of the assessee was lying vacant and the assessee did not offer any rental income in the return of income. The assessee has given reasons explaining as to why the property in question could not be let out.

To further buttress his contentions, Authorized Representative of the assessee relied on the decision of Sachin R. Tendulkar v. Dy. CIT [2018] 96 taxmann.com 253/172 ITD 266 (Mum. - Trib.).

The Co-ordinate bench in the case of Sachin R. Tendulkar (supra) in somewhat similar circumstances after applying provisions of section 23(1)(c) of the Act accepted rental income from the vacant property as 'nil'. In view of the similarity of facts, we find merit in the submissions of the assessee. Accordingly, the impugned order is set aside and the appeal of assessee is allowed.



# Goods & Services Tax

## What is the New GST Return System?

- In the 31st GST Council Meet, it was decided that a New Return System under GST would be introduced for taxpayers. This return system will contain simplified return forms, for ease of filing across taxpayers registered under GST.
- Under this New Return System, there will be one main return GST RET-1 and 2 annexures GST ANX-1 and GST ANX-2.
- This return will need to file on a monthly basis, except for small taxpayers who can opt to file the same quarterly. Small taxpayers are taxpayers with a turnover up to Rs 5 crores in the preceding financial year.

## Types of taxpayers under New GST Return system

### Type of Taxpayers

#### A. Large Taxpayers. B. Small Taxpayers

##### A. Large Taxpayers

- Taxpayers whose turnover is more than 5 Crores in the previous year.
- All the outward supplies transaction, i.e. B2B, B2C, Export, SEZ etc. covered under this return.
- Monthly or quarterly
- Two Annexure: GST ANX-1 & ANX-2
- Two amendment portion GST ANX-1A and GST RET 1A

##### B. Small Taxpayers

- Taxpayers with turnover of 5 Crore or below in the previous financial year.
- Has option to file quarterly return
- Option to file GST RET-1/RET-2 (Sahaj)/RET-3(SUGAM)

## Types of New GST Returns

### A. Normal Return

- Normal Return is a general return which is available for all
- All the outward supplies transaction, i.e. B2B, B2C, Export, SEZ etc. covered under this return.
- Monthly or quarterly
- Two Annexure: GST ANX-1 & ANX-2
- Two amendment portion GST ANX-1A and GST RET 1A

### B. Sahaj Return

- For Taxpayers involved in B2C transactions only.
- Only available to Small Taxpayers
- Quarterly only.
- Two Annexure: GST ANX-1 & ANX-2
- Two amendment portion GST ANX-1A and GST RET 2A

### C. Sugam Return

- Only for Small taxpayers
- Only for taxpayers involved in B2C and B2B transactions.
- Quarterly Only
- Two Annexure: GST ANX-1 & ANX-2
- Two amendment portion GST ANX-1A and GST RET 3A



# Goods & Services Tax

## Forms to be filed under the New GST Return System

- **GST ANX-1** (Annexure of Supplies) is for reporting details of all outward supplies, inward supplies liable to reverse charge, and import of goods and services, that will need to be reported invoice-wise (except for B2C supplies) on a real-time basis.
- **GST ANX-2** (Annexure of Inward Supplies) will report details of all inward supplies. Most of these details will be auto-drafted from the details uploaded by the suppliers in their GST ANX-1. The recipient of supplies will be able to take action on these auto-drafted documents, which will be available to them on a real-time basis.

## Changing return type and filing frequency during the year

- Quarterly (Normal) to Sahaj: Only once in the FY at the beginning of 1st quarter
- Quarterly (Normal) to Sugam: Only once in the FY at the beginning of 1st quarter
- Sahaj to Quarterly (Normal): More than once at beginning of any quarter
- Sahaj to Sugam: More than once at beginning of any quarter
- Sugam to Quarterly (Normal): More than once at beginning of any quarter
- Sugam to Sahaj: Only once in the FY at the beginning of 1st quarter

## Important Changes introduced in the New GST Return System

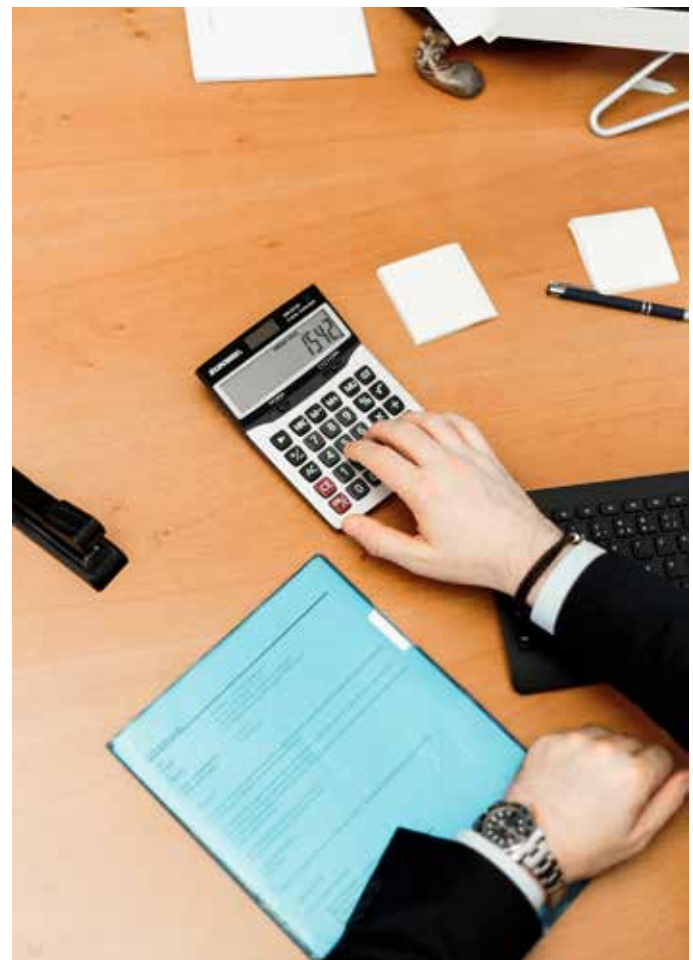
- These are some of the changes introduced in the new return system-
- Harmonized System of Nomenclature (HSN) code will be needed in order to submit details at a document level (on the basis of turnover) versus a separate HSN summary.
- A user will also get HSN via his GST ANX-2, wherever a supplier was supposed to declare the HSN code.
- B2B supplies, liable to reverse charge mechanism need not be shown by the supplier in the GST ANX-1, however, the aggregate figure will need to be shown in GST RET-1.
- Inward supplies which are liable to RCM has to be declared in GST ANX-1 at the GSTIN level, by the recipient of supplies.
- The concept of B2C-L has been removed. The turnover limit for quarterly filers (small taxpayers) will be considered as Rs 5 crore versus the present limit of Rs 1.5 crore.
- A recipient can report missing invoices at an invoice level (that is when a supplier has not uploaded an invoice in T+2 period).

# The Companies Act, 2013

## **Companies (Auditor's Report) Order, 2020**

- Revised CARO report has been notified by MCA which shall come into force with effect from February 25, 2020 and it is applicable to every company including Foreign company other than the following
  - Banking company
  - Insurance company
  - Section 8 company
  - One person company and small company as defined under Companies Act, 2013
  - Private Limited company (not being a subsidiary or holding of Public company) having a paid up share capital and reserves & surplus not more than one crore rupees as on the date of balance sheet and which does not have total borrowing exceeding one crore rupees from any bank or financial institutions at any point of time during the financial year and which does not have a total revenue exceeding ten crores rupees during the financial year
- Revised CARO is applicable for financial years commencing from April 01, 2019.
- CARO will now have mandatory disclosure of following items:
  - CSR i.e. transfer of the unspent amount to a Fund specified in Schedule VII and the amount remaining unspent to the special account within a specified period.
  - Whether there has been any resignation of Statutory Auditor during the year. Issues, objections or concerns raised by the outgoing auditors.

- Auditors will now have to record their findings related to potential frauds in companies, their ability to pay debts.
- Auditors also have to report whistle-blower complaints received by the company.





# The Companies Act, 2013

## India's Ease of Doing Business (EODB) initiatives

- Ministry of Corporate Affairs has notified a new Web Form SPICE+ (pronounced "Spice Plus") replacing the existing Spice form.
- SPICE+ would be an integrated Web form offering multiples services like:
  1. Name Reservation
  2. Incorporation
  3. DIN allotment
  4. Mandatory issue of PAN, TAN, EPFO, ESIC, Professional Tax (Maharashtra) and
  5. Mandatory opening of Bank accounts
- It will also facilitate allotment of GSTIN wherever so applied for by the stakeholders. After deployment of SPICE+ web form, RUN shall be applicable only for change of name of existing companies.
- Upon notification & deployment, all new name reservations for new companies as well as new incorporations shall be applied through SPICE+ only.
- However, incorporation of companies for names reserved through the existing RUN service shall continue to be filed in the existing SPICE eform along with related linked forms as applicable and if marked under resubmission shall be resubmitted in SPICE eform.
- Resubmission of SPICE forms submitted prior to date of deployment of SPICE+ web form shall also be filed in the existing SPICE eform and related linked forms as applicable.

## LLP Settlement Scheme, 2020: Allowing One-time condonation of delay in filing statutorily required forms/documents with the Registrar

- This scheme shall come into force on the 16th day of March, 2020 and shall remain in force up to 13th June, 2020.
- As part of Government's constant effort to promote ease of doing business, it has decided to give a one-time relaxation in additional fees to the defaulting LLP's to make good their default by filing pending document.
- This scheme shall apply to the filing of following documents which were supposed to be filled by defaulting LLP till October 31, 2019:
  - Form 3: Information with regard to limited liability partnership agreement and changes, if any, made therein
  - Form-4: Notice of appointment, cessation, change in name/ address/designation of a designated partner or partner and consent to become a partner/designated partner
  - Form-8: Statement of Account & Solvency (Annual or Interim)
  - Form-11: Annual Return of Limited Liability Partnership (LLP)
- Additional Fees: Minimum Rs. 10/- per day shall be levied as penalty for the period of delay and maximum of Rs. 5,000/- per document.
- This scheme shall not apply to LLP's which are under striking off.
- On conclusion of scheme, ROC will take action against LLP which have not availed this scheme and are in default in filing of documents as required under act.





## **SEBI Puts off the Deadline for Splitting duties of Chairperson and Managing Director by two years**

- SEBI has postponed by two years the deadline for listed companies to comply with the rule on splitting the roles of chairperson and managing director.
- Earlier the deadline to comply with this rule was April 01, 2020.
- The deferral comes after intense lobbying and resistance from many top companies and industrialists to the original deadline.
- The capital markets regulator on Monday announced April 1, 2022, as the new date for implementing the rule.
- SEBI had received many representations, including from various trade associations, seeking more time. Considering the current economic scenario, SEBI has decided against putting additional compliance burden on corporates.

### **Statutory Compliance required to be adhered to**

<b>Sr. No.</b>	<b>Form</b>	<b>Due Date</b>	<b>Description</b>
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

# NewsBites

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