FEBRUARY 2022

NewsBites

Forty-Seventh Edition

Greetings!

We are delighted to present our news bite for the month of February 2022. 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.

Best Regards,
Chartered Accountants

Contents

Income Tax

Deadline of Tax compliances before 31st March 2022

Important due dates for the Income Tax Compliance in the Month of March 2022:

Compliance Requirement	Applicable Period	Applicable Form	Due Date
Fourth Installment of advance tax for the Assessment Year 2022-23.	AY 2022-23	Advance Tax	15/03/2022
The due date for assesses is covered by the presumed scheme of section 44AD / 44ADA to pay the entire amount of advance tax for the assessment year 2022-23	AY 2022-23	Section 44AD/ 44ADA	15/03/2022
Due date of Income Tax return who have filed Tax audit report u/s 44AB	AY 2021-22	Return of Income	15/03/2022
Due date of Income Tax return for the assessee's having Transfer pricing u/s 92E.	AY 2021-22	Report under section 92E	15/03/2022
The due date for linking PAN and Aadhar number information.	-	Aadhar and Pan	31/03/2022
All assesses must file a belated/revised return of income for the assessment year 2021-22. (provided assessment has not been completed before March 31, 2021)	AY 2021-22	Revised / Belated return	31/03/2022

Concept of Updated ITR

What is Updated ITR?

- A new clause that will allow taxpayers to file 'updated' returns to correct omissions and errors in their original tax returns, within two years from the end of the relevant assessment year.
- If you file the updated return within 12 months of the end of the relevant assessment year, you will be liable **to pay a penalty equivalent to 25% of the tax and interest payable.**

  If you do file the updated return between 12 and 24 months of the end of the relevant assessment year, **the penalty will increase to 50%.**

Who can file Updated Return?

- An updated return can only be filed if it results in the assessment of additional **tax liability – that is, if the update reduces your tax outgo, or results in a return of loss, you cannot file it.**

How updated ITR is different from revised return?

- Updated return can be filed even if you have not filed your original return, while revised return cannot be filed without filing the original return.
- Updated return can be filed only if there is an additional tax liability, while revised return has no such restrictions.
- Updated return can be filed within two years from the end of the relevant assessment year, while revised return has to be filed before three months of the end of the relevant assessment year.

Assessee paying rent to wife entitled to claim HRA benefit: Delhi ITAT

Following is summary of the case
Abhay Kumar Mittal
v.s
Deputy Commissioner of Income-tax,
Circle-72(1), New Delhi

Facts of the case:

The assessee claimed the benefit of House Rent Allowance (HRA) on rent paid to his wife from September 2012 to March 2013. During the assessment proceedings, Assessing Officer (AO) asked the assessee to explain the capacity of his wife to purchase the property.

Assessee said that his wife had purchased the property for which he funded Rs. 87.50 lacs, and the remaining amount was invested from her sources, i.e., the maturity of Fixed Deposits. However, AO noticed that the assessee's wife had no independent source of income to invest in FDs. Thus, he clubbed the rental income in the hands of the assessee.

ITAT held:

- The Delhi Tribunal held that though the assessee's wife had low returned income, she had received a loan from the assessee. She also duly repaid that loan from the redemption of mutual funds and liquidation of fixed deposits.
- There is no bar on the part of the assessee to extend a loan from his known sources of income to his wife. Similarly, there is no bar on the assessee's wife to repay the loan from her mutual funds and fixed deposits.
- The assessee had paid house rent, and the recipient, the assessee's wife, had declared the same under the head's income from house property in her returns which was accepted by the revenue. The house was also registered in the name of the wife.
- The observation that the assessee had got inadequate income; hence he couldn't afford to purchase a house can't be accepted as the sources for purchase of the house in the hands of the wife were proved rather never doubted.
- Further, CIT(A) contention that the husband cannot pay rent to the wife is devoid of any legal implication supporting any such contention. Hence, keeping in view the entire facts of the case, **the benefit of HRA was to be allowed to the assessee**.

Goods & Services Tax

Important due dates for the GST Returns in the Month of March 2022:

Due date	Form to be Filled	Period	Applicable to
10/03/2022	GSTR-7	February, 2022	GSTR 7 is a return to be filed by the persons who are required to deduct TDS (Tax deducted at source) under GST
10/03/2022	GSTR-8	February, 2022	2022 GSTR-8 is a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST
20/03/2022	GSTR-5 & 5A	February, 2022	Non-Resident Taxpayers and ODIAR services provide
25/03/2022	PMT -06	February, 2022	Who has opted to file return under QRMP Scheme
31/03/2022	**RFD – 11**	-	**Application for Letter of Undertaking(LUT) for FY 2022-23**
31/03/2022	**CMP-02**	-	**Intimation to pay tax under Composition Scheme during the FY 2022-23**

Compliances under PTRC

Due date	Applicable Form	Applicable Period	Compliance Requirement
31/03/2022	PTRC Return	FY 2021-22	Annual Return on or before 31st March of the year (for salary paid for the months from 1st March to 28th February)
31/03/2022	PTRC Return without Late Fees-Amensty Scheme	-	Late fee waiver is for any tax period up to December 2021.

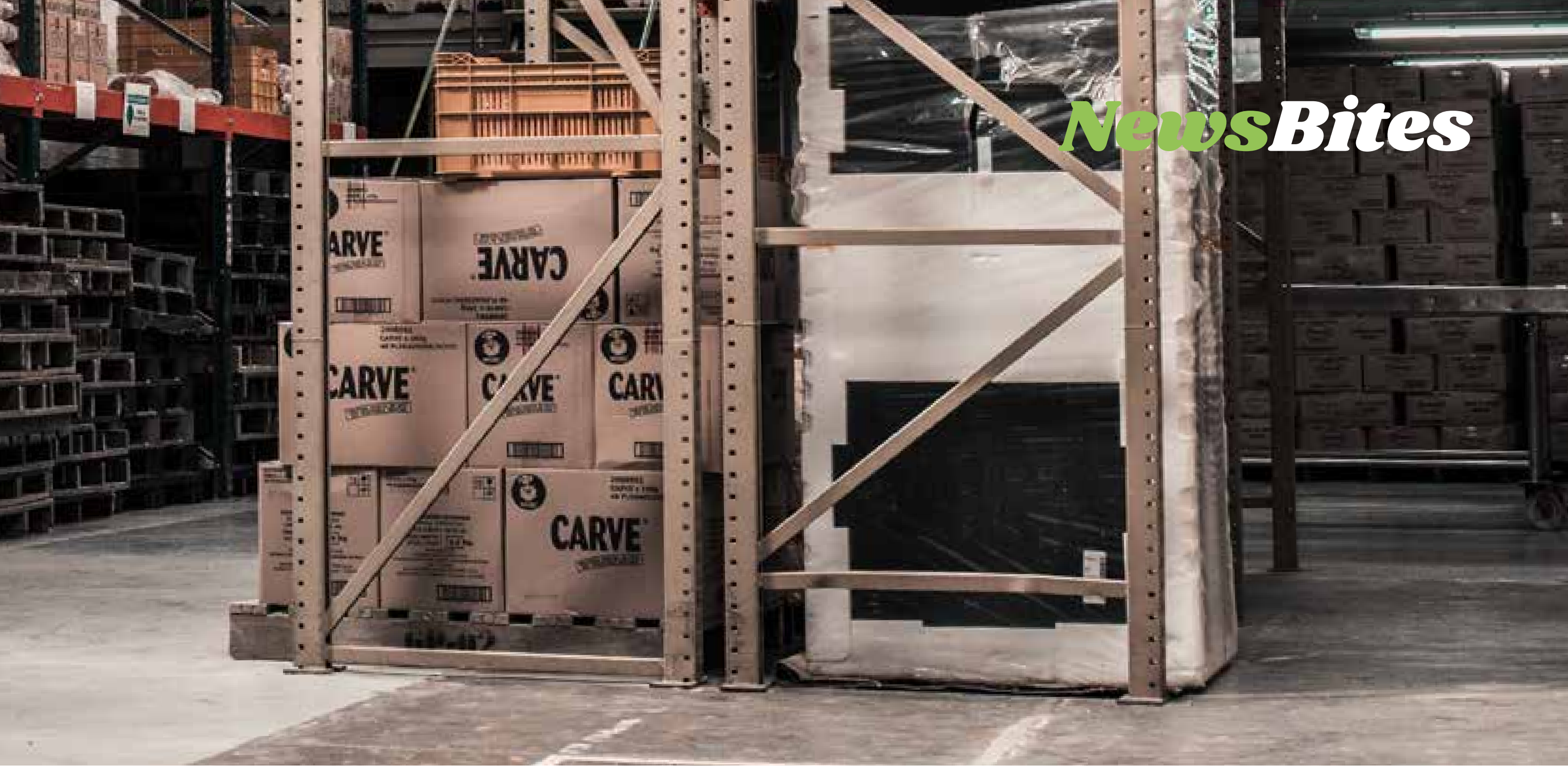
E-invoicing mandatory for taxpayers having turnover more than 20 crore from 1.4.2022:

- **What is E-invoicing?**

E-Invoicing' or 'electronic invoicing' is a system in which B2B invoices are authenticated electronically by GSTN for further use on the common GST portal. Under the electronic invoicing system, an identification number will be issued against every invoice by the Invoice Registration Portal (IRP), managed by the GST Network (GSTN).

- **To whom E-invoicing is applicable?**

The CBIC notified vide Notification No. 1/2022 on 24th February 2022 to implement the e-invoicing system for such businesses having annual turnover above Rs. 20 crore.



Auto population in GSTR 1 From Invoice registration Portal:

The following may be noted regarding the auto-population of e-invoices in GSTR-1:

a. The tax-period of GSTR-1 in which the e-invoice will be auto-populated will **be as per the Document Date**, irrespective of the date on which the document (invoice, debit note, credit note) was reported on the IRP & the IRN was generated (Date of Generation).

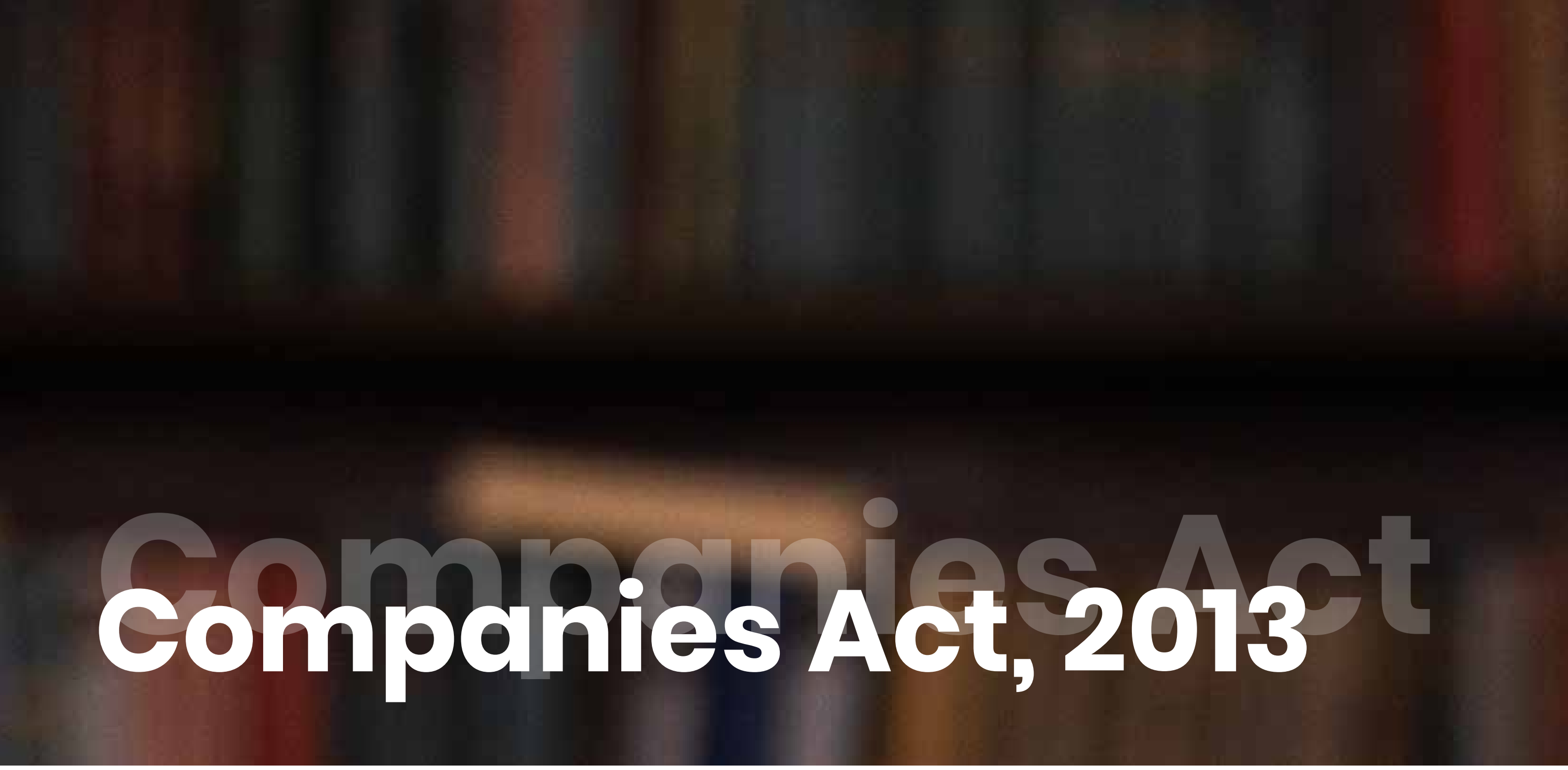
b. If the taxpayer reports the document (invoice, debit note, credit note) on the IRP after filing GSTR-1 for that period, **then the e-invoice will not be auto-populated in any subsequent GSTR-1**. The Excel file containing the e-invoice details can still be downloaded from the GSTR-1 dashboard for the tax-period to which the document (invoice, debit note, credit note) pertains to.

c. If the taxpayer reports the document (invoice, debit note, credit note) on the IRP after manually entering the document in GSTR-1, the manually entered data will not be over-written even if the GSTR-1 is not filed. The Excel file containing the e-invoice details can still be downloaded from the GSTR-1 dashboard of the tax-period to which the document (invoice, debit note, credit note) pertains to . Since the document already exists in GSTR-1 and it is not auto-populated in GSTR-1 from IRP, a message regarding this will be mentioned in the Excel file against the specific document(s).

d. Outward supplies details other than those reported in on the IRP have **to be manually entered in GSTR-1, as earlier**.

e. Documents reported earlier on the Invoice Registration Portal (IRP) can be cancelled within a specified period on the IRP. Upon cancellation, the cancellation data flows to GST system and all cancelled document(s) which were appearing as saved documents in GSTR-1 are deleted from the GSTR-1. The status of the document will be updated in the Excel file, from Valid to Cancelled. In the following scenarios ,the document status is updated in the Excel file upon cancellation on IRP, even if no further action is possible in GSTR-1 :

1. GSTR-1 is already filed.
2. Document edited manually by the taxpayer.
3. Document edited by the taxpayer.
4. Document not auto-populated due to error in auto-population



Companies Act, 2013

All LLP filing will now be web based:

The Ministry of Corporate Affairs is launching a new way of e-filing for LLP on MCA21 portal. All LLP filings now will be web based. This application is proposed to be launched on 06th Mar 2022 at 12:00 AM. as follows:

- LLP e-Filings on MCA21 portal will be disabled from 25th Feb 2022 12:00 AM.
- Offline payments for LLP using Bank Challan and Pay later option would be stopped from 19th Feb 2022 12:00 AM.
- DSC association and new user registration on MCA21 portal will be stopped on 25th Feb 2022 12:00 AM. These services will resume in new application with LLP launch.

Certain Section of Companies Act, 2013 are now made applicable to LLP's:

MCA vide its notification dated February 11, 2022 has made following sections of the Companies Act, 2013 applicable to the LLP's. The Central Government in its notification hereby directs that the provisions of sections 90, 164, 165, 167, sub-section (5) of section 206, sub-section (3) of section 207, 252 and section 439 of the Companies Act, 2013, shall apply to limited liability partnership with the modifications specified in the notification:

- Pursuant to Section 90 of the Act, Significant Beneficial Owner (s) will have to be identified in the LLP's and accordingly compliance of Section 90 to be taken up. (E-forms – BEN-1, 2 and 3).
- No person, who is or has been a designated partner of limited liability partnership which has not filed financial statements or the Statement of Account and Solvency or annual returns, as the case may be, for any continuous period of three financial years; or has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay the interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more, shall be eligible to become or continue as a designated partner of that limited liability partnership or to become a designated partner in other limited liability partnerships for a period of five years from the date on which the said company or limited liability partnership fails to do so.
- No person shall hold office as a DP, in more than twenty LLP's at the same time.
- If a person is acting as a DP in more than 20 LLP's prior to this notification, he/ she shall within one year from the date of notification, resign his office as a DP in a few LLP's to limit the no. to 20 and shall intimate such choice to all the LLPs and the ROC.
- A person shall not be eligible for appointment as a DP of a LLP, if he/she is found to be disqualified under Section 164(1) of the Act.
- The provisions of vacation of office of Director shall equally apply to DP's of a LLP.

Amendment in incorporation rules of LLP:

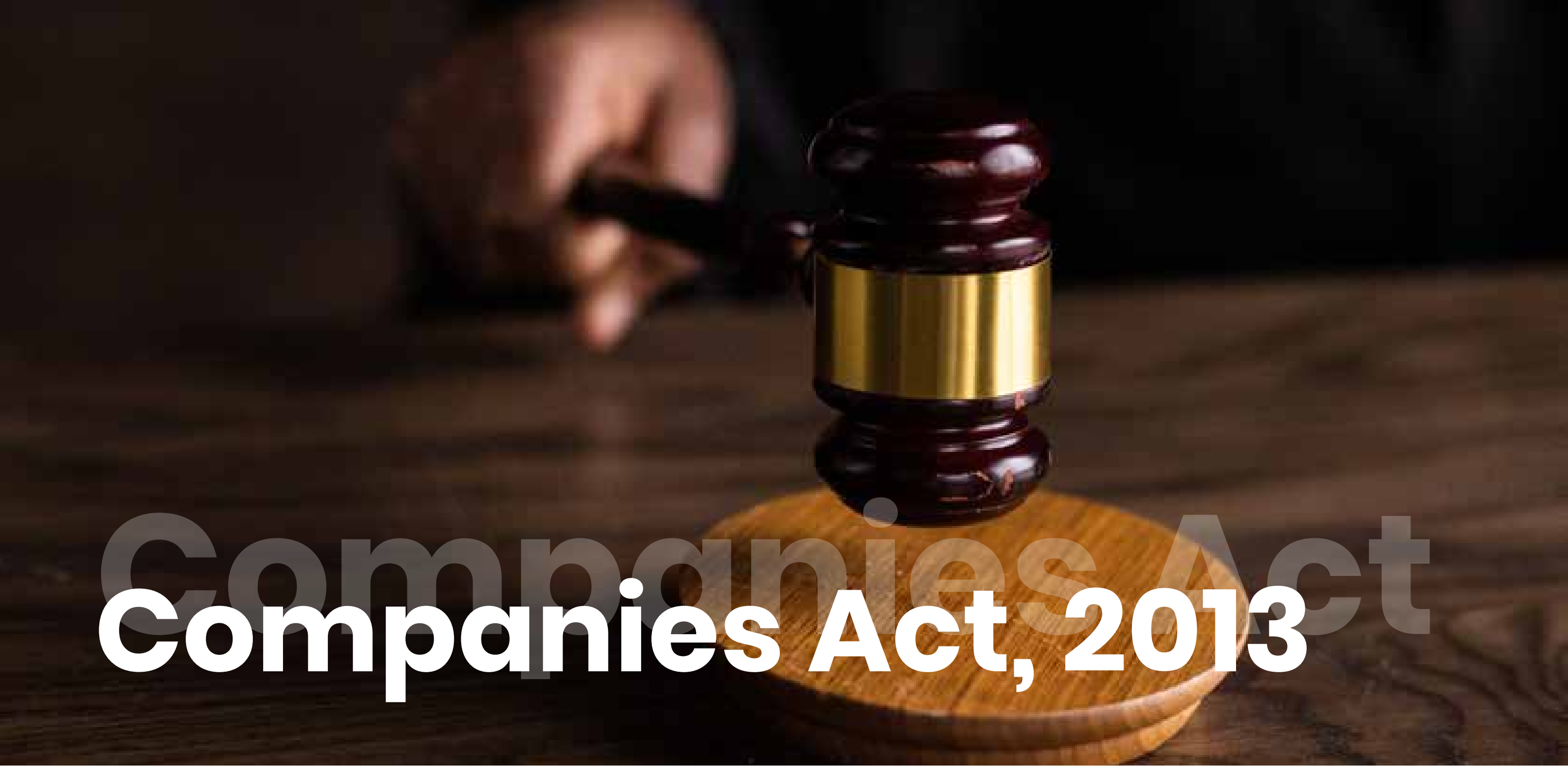
MCA has notified Limited Liability Partnership (Second Amendment) Rules, 2022 to further amend the existing Limited Liability Partnership Rules, 2009, which shall come into force on the date of its publication in the Official Gazette i.e. 04-03-2022.

- According to the amendment, now the new LLP under incorporation can make an application for allotment of DPIN for 5 (five) individuals in Form FiLLiP instead of two.
- In line with the incorporation of companies, now the Certificate of Incorporation of LLP shall be issued by the Registrar in Form 16 and shall mention Permanent Account Number and Tax Deduction Account Number issued by the Income Tax Department.
- Further certain forms are merged and also many forms are revised.

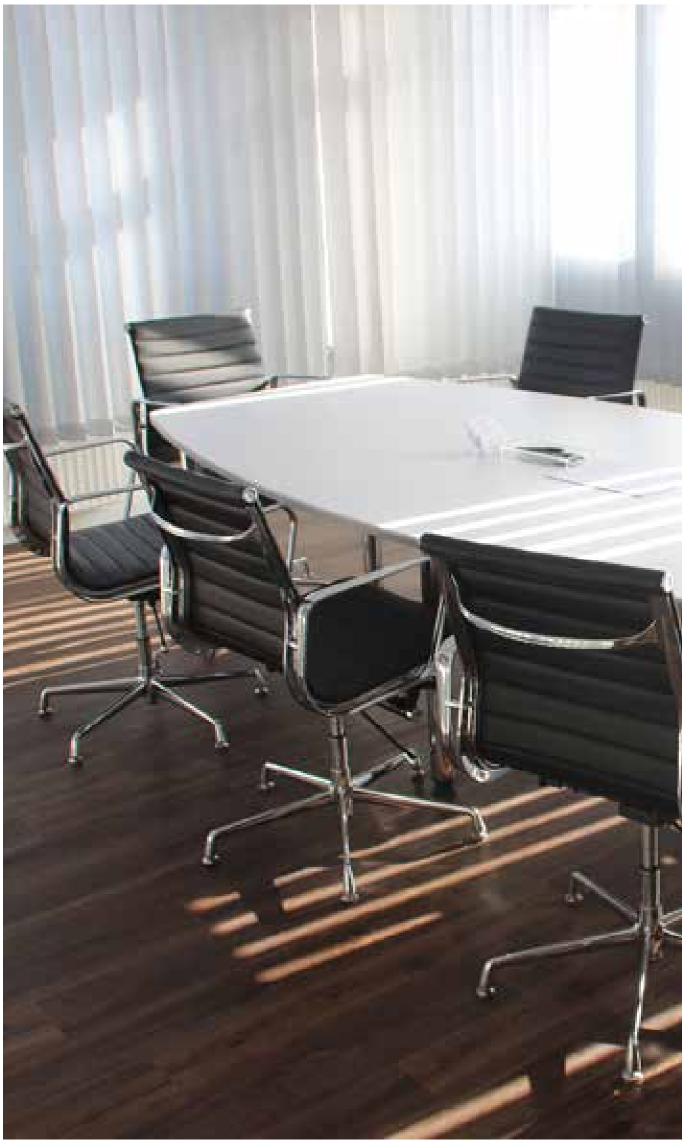
Right of registered trademark owner:

MCA has notified the Limited Liability Partnership (Amendment) Rules, 2022 which shall come into force with effect from April 01, 2022.

- The amendment is brought under Rule 19(1) which states that a limited liability partnership or a company or a proprietor of a registered trademark under the Trade Marks Act, 1999 already has a name or trademark which is similar to or which too nearly resembles the name or new name of a limited liability partnership incorporated subsequently, may apply to the Regional Director in Form 23 to give a direction to that limited liability partnership incorporated subsequently to change its name or new name, as the case may be.
- Provided that an application of the proprietor of the registered trademark shall be maintainable within a period of three years from the date of incorporation or registration or change of name of limited liability partnership under the Act.
- Further, a new Rule 19A which deals with the allotment of the new name to an existing LLP has been notified. In case a Limited Liability Partnership fails to change its name or new name, as the case may be, in accordance with the direction issued under Section 17(1) within a period of three months from the date of issue of such direction, the letters "ORDNC" (Order of Regional Director Not Complied), the year of the passing of the direction, the serial number and the existing LLPIN of the LLP shall become the new name of the LLP without any further act or deed by the LLP.
- The LLP can file an appeal within 60 days of passing the order by the adjudicating officer in form 33 – LLP ADJ setting forth the appeal grounds with the Regional Director. MCA has also notified the Form 16A – Certificate of Incorporation under change of name due to Order of Regional Director not being complied and Form 33 – LLP ADJ – Memorandum of Appeal, through the Limited Liability Partnership (Amendment) Rules, 2022.



Companies Act, 2013



Introduction of E-form CSR-2:

MCA has notified the Companies (Accounts) Amendment Rules, 2022 which shall come into force on the date of MCA publication in their Official Gazette i.e. 11-02-2022.

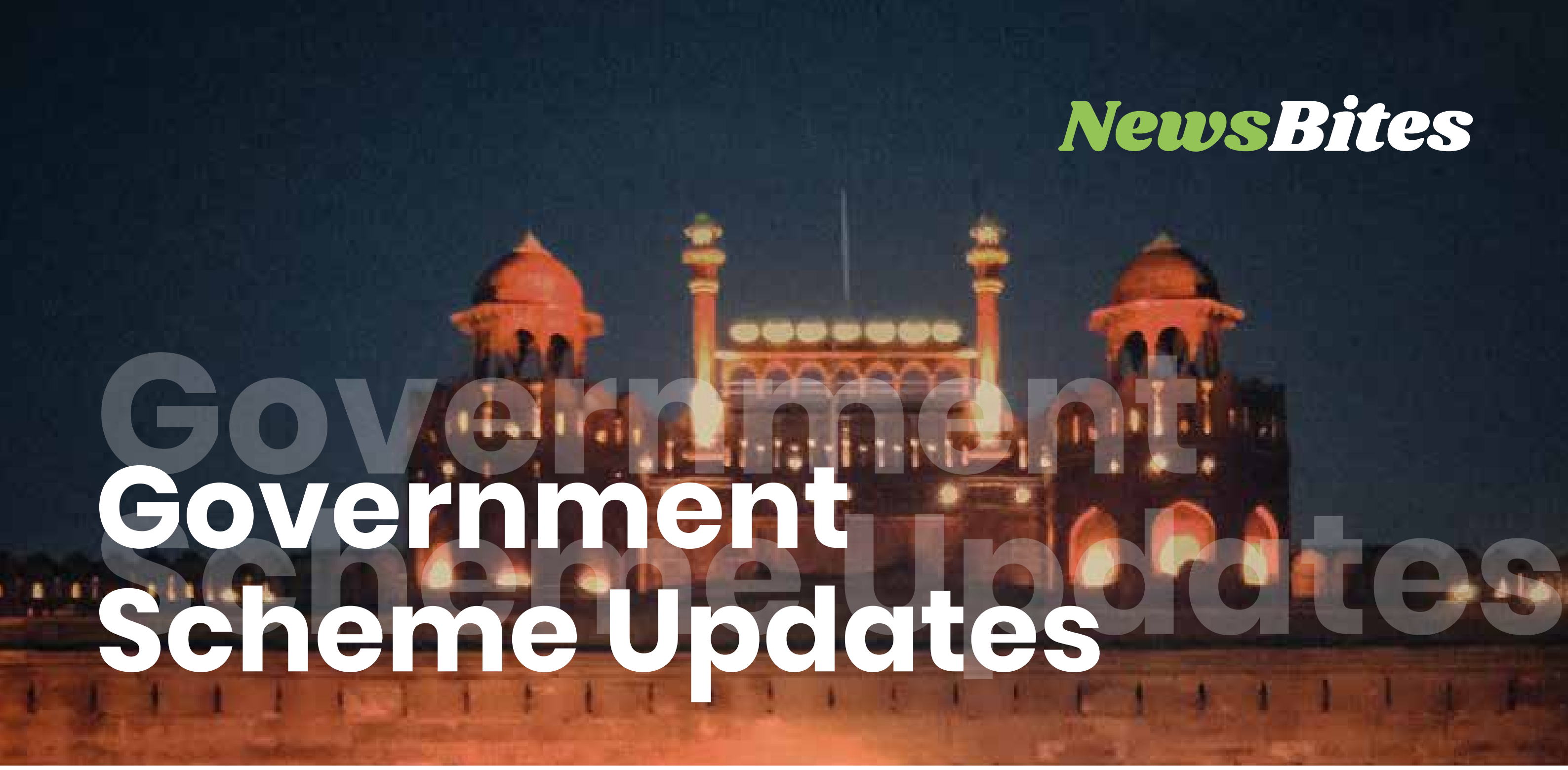
- As per the notification, every company with CSR responsibility shall furnish a report on Corporate Social Responsibility in Form CSR-2 to the Registrar for the preceding financial year (2020-2021) and onwards as an addendum to Form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS), as the case may be.
- For the preceding financial year (2020-2021), Form CSR-2 shall be filed separately on or before March 31, 2022, after filing Form AOC-4 or OC-4 XBRL or AOC-4 NBFC (Ind AS), as the case may be.

Relaxation on levy of additional fees in filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non XBRL and MGT-7/MGT-7A for the Financial Year ended on 31.03.2021:

MCA, vide its circular dated February 14, 2022, has further relaxed the due date for filing the Annual Return and financial statement without additional fees.

The Forms MGT-7/MGT 7A can be filed till 31.03.2022 for the financial year ended on 31.03.2021 instead of 28.02.2022 and the Forms AOC-4, AOC-4 XBRL, AOC-4 NON-XBRL, AOC-4 (CFS) can be filed till 15.03.2022 for the financial year ended on 31.03.2021 instead of 15.02.2022.

During the said extended period, only normal fees shall be payable for the filing of the aforementioned e-forms.



Government Scheme Updates

Industry News:

Subsidy for Large Scale Industries in Vidarbha, Marathwada, Ratnagiri, Sindhudurg & Dhule:

The Subsidy available for manufacturing units & food processing units for Large Scale Industries under package scheme of incentive – 2019 are as follows:

Coverage under the PSI -2019

- Manufacturing Enterprises
- IT Manufacturing Units registered with DIC/MIDC/STPI
- Bio-Technology Manufacturing Units
- Mechanized Food / Agro Processing Industries

Quantum of Incentives for LSI Projects

Taluka / Area Classification	Minimum Qualifying Fixed Capital Investment (INR crore)	Minimum Direct Employment (Number of people)	Maximum Ceiling of basket as % of FCI	Incentive period in years
Vidarbha, Marathwada, Ratnagiri, Sindhudurg & Dhule	100	300	80%	9

- Large Scale projects based on employment criteria shall be required to maintain the qualifying direct employment (on the roll and in premises of the eligible Unit) throughout the year and 80% of such employees should be local persons.
- If the employment criteria are not maintained in any month of the year for which Industrial Promotion Subsidy is claimed, then Industrial Promotion Subsidy shall not be admissible for such year.
- Minimum Direct Employment should be created within a period of two years from the date of commencement of commercial production.

Additional subsidy for food / Agro processing units:

- 20% over and above the limits mentioned above
- Two more years of eligibility to avail the incentives

Basket of Incentives for LSI Projects:

- Industrial Promotion Subsidy - 50% of Gross SGST refund for new/expansion units.
- Stamp Duty Exemption for Land & Term Loan: New Units as well as Units undertaking Expansion / Diversification will be exempted from payment of Stamp duty during the Investment period.
- Electricity duty exemption for new unit – All Eligible New Units will be exempted from payment of Electricity Duty during applicable eligibility period.

NewsBites

SAN & CO.
CHARTERED ACCOUNTANTS

We are professional firm of Chartered Accountants having significant experience across varied industries and business segments.

We specialize in providing the following services:

1. India Set up
2. Corporate Compliance Management
3. Audit & Assurance
4. Government Incentives & Bank Finance

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:
S A N & 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