

NewsBites

Fifty-second Edition

Greetings!

We are delighted to present our news bite for the month of July 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,
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Chartered Accountants

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TAXES

Income Tax

- INCOME
- BUSINESS
- STATE

CBDT reduces time limit to verify ITR from 120 days to 30 days for returns filed on or after 01/08/2022:

- CBDT said that in respect of any electronic transmission of return data on or after the date of the notification coming to effect, the time limit for e-verification or submission of ITR-V shall be now 30 days from the date of transmitting/uploading the data of return of income electronically.
- However, the CBDT said that ITR e-verified beyond 30 days will be treated as ITR filed on the date of e-verification and all consequences of late filing under the Act shall follow.
- CBDT clarified that where the return date is electronically transmitted before the date on which the notification comes into effect, the earlier time limit of 120 days would continue to apply in respect of such returns.
- Further, in case of verification through ITR-V submission, the duly verified ITR-V shall be required to be sent to CPC Bangalore only by Speed Post. Earlier, posting of duly verified ITR-V by Ordinary Post was also allowed.
- One may e-verify the electronic transmitted return data using Aadhaar OTP or Login to e-Filing account through Net-Banking login or EVC obtained generated using Pre-Validated Bank Account/Demat Account or EVC generated through Bank ATM.
- The new rule states that if ITR is verified after the prescribed time limit of 30 days, then the return shall be treated as a return furnished on the date of verification and all the consequences of late filing of return under the Income Tax Act, 1961 shall follow. It means the return will be marked as a belated return (if the verification date falls after the due date of filing of return as prescribed under section 139(1)). Accordingly, late fees under section 234F will be levied. Further,

carry forward of loss of the current year shall not be allowed.

- Henceforth, it is advisable to verify the return of income immediately preferably in electronic mode or dispatch the ITR-V at the earliest to avoid late filing consequences.

Tax payers can file their Income Tax returns with penalty till 31st December 2022:

More than 5.8 crore ITRs were filed till July 31 for FY 2021-22. The due date of ITR filing for FY 2021-22 (AY 2022-23) was July 31, 2022. Taxpayers who failed to file their returns by the due date would have to pay a penalty from 1st August 2022. There is a fine of up to Rs 10,000 on belated ITR filing, which can be done till December 31, 2022.

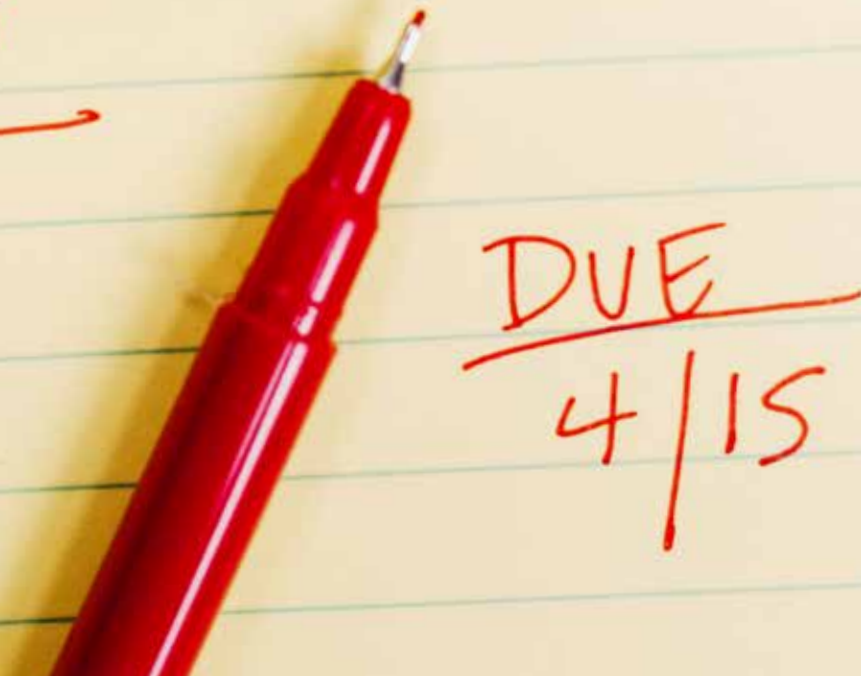
31 July 2022 was the last date to file ITR of AY 2022-23 for salaried employees and Hindu Undivided Families (HUFs) whose accounts don't need to be audited. Taxpayers who failed to file ITR by 31 July can now file belated income tax returns till 31 December 2022. However, they will have to pay a penalty for late filing.

ITAT held that no penalty for deduction of tax at year end if amount payable to payee's wasn't identifiable:

**Assistant Commissioner of Income-tax
v.
Parsons Brinckershoff India (P.) Ltd.***

Facts of the case

Assessee was engaged in business of providing consultancy services and supply of manpower services to power and infrastructure sector in India and abroad.



Assessee created provisions for certain expenses and claimed that tax was deducted when liability to pay such expenses was crystallized on receipt of invoices. Assessing Officer denied said claim on ground that under mercantile system of accounting, accrual of liability for any expenditure was not dependent on receipt of invoices .He, thus, held that assessee-company failed to deduct TDS and levied penalty under section 271C.

Held

Commissioner (Appeals) deleted penalty on ground that taxes were duly deducted and deposited against impugned expenses when liability to pay such expenses was crystallized .He further, held that assessee was prevented by a reasonable cause to withhold taxes primarily on account that amount payable to payees were not identifiable and, thus, imposition of penalty was not justifiable - Whether since Commissioner (Appeals) while cancelling penalty had justifiable reason that were not challenged by revenue, mere fact that taxes were not deducted on year end provision but were subsequently deducted and deposited upon crystallization of liability to pay expenses would not automatically justify imposition of penalty under section 271C.

DGIT Notifies Income Tax forms, returns for electronic Submission:

Director General of Income Tax (Systems) (DGIT) vide notification/forms/2022/3813, dated 16-7-2022 stated that the following Forms, returns, statements, reports, orders, by whatever name called, shall be furnished electronically and shall be verified in the manner prescribed under sub-rule (1) of Rule 131:

Sn.	Form	Description
1	3CEF	Annual Compliance Report on Advance Pricing Agreement

Sn.	Form	Description
2	10F	Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A of the Income-tax Act, 1961
3	10IA	Certificate of the medical authority for certifying 'person with disability', 'severe disability', 'autism', 'cerebral palsy' and 'multiple disability' for purposes of section 80DD and section 80U
4	3BB	Monthly statement to be furnished by a Stock Exchange in respect of transactions in which client codes have been modified after registering in the system for the month of --
5	3BC	Monthly statement to be furnished by a Recognized Association in respect of transactions in which client codes have been modified after registering in the system for the month of --
6	10BC	Audit report under (sub-rule (i) of rule 17CA) of Income-tax Rules, 1962, in the case of an electoral trust
7	10FC	Authorization for claiming deduction in respect of any payment made to any financial institution located in a Notified jurisdictional area
8	28A	Intimation to the Assessing Officer under section 210(5) regarding the Notice of demand under section 156 of the Income-tax Act, 1961 for payment of advance tax under section 210(3)/210(4) of the Act
9	27C	Declaration under sub-section (1A) of section 206C of the Income-tax Act, 1961 to be made by a buyer for obtaining goods without collection of tax
10	58D	Report to be submitted by a public sector company, local authority or an approved association or institution under clause (ii) of sub-section (5) of section 35AC of the Income-tax Act, 1961 to the National Committee on a notified eligible project or scheme.
11	58C	Report to be submitted under clause (ii) of sub-section (4) of section 35AC of the Income-tax Act, 1961 to the National committee by an approved association or institution
12	68	Form of application U/s 270AA(2) of the Income-tax Act, 1961

Goods & Services Tax

GST on Services by way of renting of residential dwelling for use as residence:

Services by way of renting of residential dwelling for use as residence was exempted vide notification no 12/2017.

Now the Central government, on being satisfied that it is necessary in the public interest has amended the said notification (i.e., Notification No. 12/2017), **after the words “as residence”, the words “except where the residential dwelling is rented to a registered person” shall be inserted;**

Ministry of finance vide notification number 04/2022-Central Tax (Rate) has withdrawn the exemption related to the renting of residential dwelling to a registered person.

Now onwards, as per Notification No. 05/2022-Central Tax Rate) dated. 18.07.2022, an unregistered person (Not registered under GST) has given the residential house property rented out to a registered person (Registered under GST) is liable to pay GST under Reverse Charge Mechanism by the Tenant.

If a residential property owner (Landlord) is unregistered under GST Law, he has given such residential property to a registered person (Registered under GST Law), for use the purpose of residential under that circumstance, Tenant is liable to pay GST tax @18% under Reverse Charge Mechanism (RCM) as per Notification No. 05/2022-Central Tax Rate) dated. 18.07.2022.

After Issuance of this amendment, GST will be applicable as follows.

Supplier of Service	Recipient of Service	GST Applicability
Unregistered Person	Registered Person	The Recipient will liable to pay GST on RCM basis.
Registered Person	Registered Person	The Recipient will liable to pay GST on RCM basis.
Unregistered Person	Unregistered Person	GST is Exempted
Registered Person	Unregistered Person	GST is Exempted

We can summarize this amendment by taking the following cases-

Case-1:

When a company takes a residential house property for use of residence on rent for employees it will be considered as an item of business expenditure. GST Tax will be paid @18% under RCM and eligible to claim Input Tax Credit by the company.

Case-2:

When a person is having GST registration under Composition Scheme, takes a residential house property for the purpose of residence on rent then it will be considered as an item of business expenditure. GST Tax will be paid under RCM but not eligible to claim input tax credit as per Section 10(4) by composition dealer.

Case-3:

When an individual who is registered taxpayer under GST Law, 2017, as a proprietary concern, takes a residential house property for the purpose of residence on rent for him or her or family then it will be considered as an item of personal expenditure and not the business expenditure of a proprietary concern. GST tax will be paid under RCM but the ITC of the GST tax paid under RCM be claimed as it is blocked as per Section 17(1) of the CGST Act, 2017.



Case-4:

When a company, registered under GST Law and take a residential property on rent for one of its directors for residential purposes, then such company have to pay GST Tax @18% under RCM as per Notification No. 05/2022-Central Tax Rate) dated. 18.07.2022 and thereafter, claim input tax credit (ITC) on the same.

Case-5:

A unregistered person (Un-registered under GST) has given a residential house property to a unregistered person (Un-registered under GST) on monthly basis for use for residential purpose, under that circumstances TENAT is not liable to pay GST. Because it is exempted as per Notification No.12/ 2017- C.T. Dated. 28.06.2017

GST e-Invoicing threshold limit reduced to Rs 10 Crores:

The CBIC vide Notification No. 17/2022-Central Tax dated 01/08/2022 has notified the reduction in the **applicability of e-invoicing threshold limit from Rs. 20 Crores to Rs. 10 Crores with effect from 1st October, 2022.**

It may be pertinent to note that the taxpayers need to comply with e-invoicing if the turnover **exceeds the specified limit in any financial year from 2017-18 onwards.**

In simple words, taxpayer having aggregate turnover exceeding Rs. 10 Crores in any FY 2017-18 onwards has to issue e-Invoice from 1st October, 2022. An e-Invoice 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 is issued against every invoice by the Invoice Registration Portal (IRP) to be managed by the GST Network (GSTN).



Companies Act, 2013

Process of PAN application for LLP with incorporation application:

CBDT has issued a notification to notify the Procedure of PAN application & allotment through Simplified Proforma for incorporating Limited Liability Partnerships electronically {Form: FiLLiP} of the Ministry of Corporate Affairs.

As per Proviso to Rule 114(1) of Income Tax Rules, 1962 an applicant may apply for allotment of a permanent account number through a common application form notified by the Central Government. A Common Application Form (CAF) in the form of Simplified Proforma for incorporating Limited Liability Partnership (LLP) (Form - FiLLiP) has been notified by the Ministry of Corporate Affairs. In this regard, CBDT has laid down the classes of persons, forms, format and procedure for Permanent Account Number (PAN).

Accordingly, FiLLiP form will apply to Newly incorporated Limited Liability Partnership (LU) and Simplified Proforma for incorporating a Limited Liability Partnership (LLP) shall be notified by the MCA.

Further, an application for allotment of Permanent Account Number (PAN) will be filed in FiLLiP form using the Digital Signature of the applicant as specified by the Ministry of Corporate Affairs.

After the generation of the Limited Liability Partnership Identification Number (LLPIN), MCA will forward the data in Form 49A under the DSC of Registrar of Companies in the XML format.

MCA is launching the first set of Company Forms on the MCA21 V3 portal:

MCA will be launching following Forms on MCA21 V3 portal:

- DIR3-KYC Web, DIR3-KYC Eform, DPT-3, DPT-4, CHG-1, CHG-4, CHG-6, CHG-8 & CHG-9.

Further these forms will be launched on August 31, 2022 at 12:00 AM.

To facilitate implementation of these forms in the V3 MCA21 portal, Company e-Filings on the V2 portal will be disabled from 15th Aug 2022 at 12:00 AM for the above 9 forms.

Further, offline payments for the above 9 forms in V2 using the Pay later option would be stopped from August 07, 2022 at 12:00 AM.

Case Law regarding bar on voting as per Section 188 on related party:

Supreme Court upholds order of Securities Appellate Tribunal holding that bar of voting as per section 188 of Companies Act, 2013 as well as regulation 23 of LODR on related parties operates only at time of entering into contract or arrangement i.e. when resolution was passed and it does not prohibit related parties from voting for recalling rescinding said resolution.

[2022] 137 taxmann.com 496 (SC)
SUPREME COURT OF INDIA
Securities and Exchange Board of India

v.
R.T. Agro (P.) Ltd.
DINESH MAHESHWARI AND ANIRUDDHA BOSE, JJ.
CIVIL APPEAL NO. 2957 OF 2022
APRIL 25, 2022

FACTS:

Company 'R' had passed a special resolution to enter into a related party transaction with company 'N' for purchase of residential space - In terms of section 188 of Companies Act, 2013 related parties were abstained from voting on said special resolution -

Thereafter, an Extraordinary General Meeting was

convened for rescinding said resolution in which, related parties also voted - On a complaint alleging violation of section 188 as well as Regulation 23, SEBI penalized promoters of 'R' including respondent - Securities Appellate Tribunal (SAT) allowed appeal filed by respondents against order of SEBI, inter alia, holding that bar of voting as per section 188 on related parties operated only at time of entering into a contract or arrangement, i.e. when resolution was passed, and in instant case related parties were indeed abstained from voting at time of entering into contract and, thus, there was no fault in said parties voting in recalling/rescinding of resolution passed.

ORDER:

1. The company R. T. Exports Limited proposed to enter into a transaction with one Neelkanth Realtors Private Limited for purchase of 40,000 sq. ft. of residential space. This proposal was treated as a related party transaction and was required to be approved by the shareholders of the Company. Accordingly, a special resolution was approved by R. T. Exports Limited on 15-7-2014. In terms of section 188 of the Companies Act, 2013, the related parties abstained from voting on this special resolution. Thereafter, an Extra-Ordinary General Meeting was convened on 16-12-2016 for rescinding the resolution dated 15-7-2014 in which, the related parties also voted.
2. However, the appellant-SEBI took up the matter on a complaint and issued notice alleging violation of Regulation 23 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. The Adjudicating Officer, ultimately, proceeded to penalise the present respondents with a cumulative sum of Rs. 35 lakhs for the alleged violation of the said Regulation 23.
3. The Securities Appellate Tribunal has not approved this order passed by the Adjudicating Officer and has allowed the appeal filed by the present respondents while, inter alia, holding that the bar of voting as per section 188 of the Companies Act, 2013 on related parties operated only at the time of entering into a contract or arrangement, i.e., when the resolution dated 15.07.2014 was passed; and therein the said related parties indeed abstained from voting. The Appellate Tribunal found no fault in the said parties voting in the recalling/rescinding of the said resolution.
4. The view, as taken by the Appellate Tribunal, in the given set of facts and circumstances of the present case, appears to be a plausible view of the matter. In fact, nothing of ill-intent on the part of the respondents has been established in the present case. The hyper-technical stance of the appellant could have only been, and has rightly been, disapproved on the given set of facts and circumstances.
5. The appeal fails and is, therefore, dismissed.
6. All pending applications stand disposed of.

Government Scheme Updates

Industry News:

Maharashtra Electric Vehicle Policy, 2021:

Maharashtra Electric Vehicle Policy, 2021 shall apply exclusively to **Battery Electric Vehicles (BEVs)** sold and registered in the State of Maharashtra. Mild Hybrid, Strong Hybrid, and Plug in Hybrid Electric Vehicles are not covered under this policy.

Maharashtra Electric Vehicle Policy, 2021 is valid till 31st March, 2025.

Policy Object:

- The primary objective of Maharashtra Electric Vehicle Policy 2021 is **to accelerate adoption of Battery Electric Vehicles (BEVs) in the state so that they contribute to 10% of new vehicle registrations by 2025.**
- In the six targeted urban agglomerations i.e. Mumbai, Pune, Nagpur, Nashik, Aurangabad and Amravati in the state, achieve 25% electrification of public transport & achieve 25% electrification of fleet operators, fleet aggregators and last-mile delivery vehicles by 2025.
- Transition of 15% of Maharashtra State Road Transport Corporation's (MSRTC) existing bus fleet to electric.
- Make Maharashtra the country's top producer of BEVs in India, in terms of annual production capacity.
- Target establishment of at least one Gigafactory for the manufacturing of advanced chemistry cell (ACC) batteries in the state.
- Promote research and development (R&D), innovation, and skill development across the EV ecosystem in the state.

Policy Targets:

Sn.	Description	Target	Remarks
1	All vehicles	10%	Share of EVs in new vehicle registrations in the state till 2025
	2 wheelers	10%	
	3 wheelers	20%	
	4 wheelers	5%	
2	Fleet operators / Fleet aggregator	At least 25% of the urban fleet operated by the fleet aggregators/operators in the state to transition to EVs by 2025.	Applies to e-commerce companies, last-mile delivery/logistics players and mobility aggregators operating in urban areas.
3	Buses	1. In the six targeted urban agglomerations (UA) i.e. Mumbai, Pune, Nagpur, Nashik, Aurangabad and Amravati in the state, achieve 25% electrification of public transport by 2025	
		2. MSRTC to convert its existing bus fleet to 15% electric fleet	
4	Charging infrastructure	Cities: By 2025, city-wise targets of public and semi-public charging stations are, as listed below-	1. Setup at-least one public charging station in a 3 km x 3 km grid, or



		Greater Mumbai UA – 1500 Pune UA – 500 Nagpur UA – 150 Nashik UA – 100 Aurangabad UA – 75 Amravati – 30 Solapur – 20	2. A minimum of 50 charging stations per million population, whichever is higher.
		Highways: Make following four highways/ expressways fully EV ready by 2025 1. Hindu Hurudaysamrat Balasaheb Thackeray Samruddhi Highway – (Mumbai-Nagpur) 2. Yashwantrao Chavan Expressway – (Mumbai-Pune) 3. Mumbai Nashik 4. Nashik Pune	3. Setup public charging stations on highways at 25 km distance (on both sides of the highways)
5.	Government vehicle fleet	Starting 1st April 2022, all new govt. / semi govt./ urban local bodies / govt. funded organizations vehicles operating within the cities to be battery electric vehicles. All vehicles leased for Govt. official purpose shall be battery electric vehicles	

Note.

1. The 3-wheeler and 4-wheeler targets are inclusive of passenger as well as goods carrier vehicles.
2. E-commerce companies include companies like Amazon, Flipkart, etc. Last-mile delivery/logistics players include Zomato, Swiggy and other courier and delivery firms and mobility aggregators include Ola, Uber, Black-yellow taxi, etc.



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