

NewsBites

Sixty Third Edition

Greetings!

We are delighted to present our news bite for the month of June 2023. 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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Income Tax

Due date to file TDS returns for 1st quarter of F.Y. 2023-24 has been extended:

A. Extension for Statement of Deduction of Tax (Form 26Q or 27Q)

The statement of deduction of tax for the first quarter of the financial year 2023-24, which is required to be furnished in Form 26Q or 27Q, now has an extended due date of September 30, 2023. Previously, taxpayers were expected to submit this statement by July 31, 2023, under Rule 31A of the Income-tax Rules, 1962.

B. Extension for Statement of Collection of Tax (Form 27EQ)

Similarly, the statement of collection of tax for the first quarter of the financial year 2023-24, required to be furnished in Form 27EQ, has been granted an extension until September 30, 2023. Initially, the due date for this statement was set for July 15, 2023, as per Rule 31AA of the Income-tax Rules, 1962.

Supreme Court judgment on delay in deposit of TDS:

Subject: No penalty is leviable under section 271C on mere delay in remittance of TDS after deducting same by assessee

SUPREME COURT OF INDIA
US Technologies International (P.) Ltd.
v.
Commissioner of Income-tax

FACTS:

The assessee was a software company. During a survey conducted in its premises, it was noticed that massive

amount of tax deducted at source from payment under the heads salaries, payment to contractors, professional fees for technical services, rent, etc., had been retained by the assessee without making remittance to the department.

The Assessing Officer levied the penalty under section 271C upon the assessee equal to the amount of tax recovered at source and withheld by the assessee without remittance to the department on due dates.

On appeal, both, the Commissioner (Appeals) and the Tribunal, upheld the order of the Assessing Officer.

The High Court dismissed the appeal preferred by the assessee by holding that failure to deduct/remit TDS would attract penalty under section 271C.

HELD:

It is required to be noted that all these cases are with respect to the belated remittance of the TDS though deducted by the assessee and therefore, section 271C(1)(a) shall be applicable. The instant case is a case of belated remittance of the TDS though deducted by the assessee and not a case of non-deduction of TDS at all.

Further on true interpretation of section 271C, there shall not be any penalty leviable under section 271C on mere delay in remittance of the TDS after deducting the same by the assessee.

As observed, the consequences on non-payment/belated remittance of the TDS would be under section 201(1A) and section 276B.

In view of the above, as the respective assessee remitted the TDS though belatedly and it is not case of non-deduction of the TDS at all they are no liable to pay the penalty under section 271C.

In view of the above, Impugned judgment(s) and order(s) passed by the High Court are hereby quashed and set aside and the question of law on interpretation of section 271C is answered in favour of the assessee(s) and against

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the revenue and it is specifically observed and held that on mere belated remitting the TDS after deducting the same by the concerned person/assessee, no penalty shall be leviable under section 271C.

High Court judgment about Assessing officer placing reliance on upon office memorandum:

Subject:

Where assessee filed an application under section 220(6) for stay of demand which was rejected on ground of non-payment of 20 per cent of outstanding demand as per CBDT Office Memorandum, dated 31-7-2017, since Assessing Officer had not considered anything but just mechanically declined to grant stay by placing reliance upon Office Memorandum, impugned orders passed were liable to be set aside and matter was to be remitted back to Asstt. CIT to pass a fresh order.

HIGH COURT OF JHARKHAND
Nirmal Kumar Pradeep Kumar, (HUF)
v.
Union of India

FACTS:

Petitioner was involved in the business of mining and quarrying and was having two merchant mines of iron ore. The District Mining Officer directed the petitioner to make payment of compensation towards damage to environment to the tune of Rs. 202,18,60,671/- with respect to those mines. Petitioner had claimed aforesaid compensation as allowable expenditure under section 37(1) and accordingly reflected a net loss of Rs. 129,26,59,785/- in its return under section 139(1).

Pursuant to scrutiny assessment under section 143(3), the Assessing Officer disallowed the claim made by the

petitioner and determined the tax liability for an amount of Rs. 96,99,29,760.

Petitioner preferred an appeal before the CIT(A) which is pending.

Thus, he had also filed an application under section 220(6) for stay of demand which was rejected on ground of nonpayment of 20 Percent of outstanding demand as per the Office Memorandum of CBDT, dated 31-7-2017.

Petitioner even filed a rectification petition under section 154 and pursuant to said petition, rectification order was passed wherein tax liability reduced to Rs. 35,28,39,450/-.

Thereafter, he had even filed a review application before Principal CIT. The PCIT had ordered to make pre-deposit of 5 crores as well as Rs. 10 lakhs per month from April, 2023 till the month of disposal of appeal, and further ordered that if the said amount was paid, then no coercive action should be taken for recovery by the AO.

On writ before the High Court, the petitioner challenged the order passed by AO under section 220(6) and review order passed by the Principal CIT.

HELD:

Assessing Officer had declined to grant stay by placing reliance upon impugned Office Memorandum reading to mean that in each and every case, 20 per cent of pre-deposit was required for granting stay of the balance demand which runs completely contrary to provisions of section 220(6) itself –

Whether since no discussion was there as regards basic parameters to be kept in mind while granting stay of demand and neither authorities had exercised their discretion in a judicial manner, impugned orders passed were liable to be set aside and quashed and, consequently, matter was to be remitted back to Asstt. CIT to pass a fresh order.



Goods & Services Tax

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GST Advisory:

Online Compliance Pertaining to Liability / Difference Appearing in RI – R3B (DRC-01B)

1. It is informed that GSTN has developed functionality to enable the taxpayer to explain the difference in GSTR-1 & 3B return online as directed by the GST Council. This feature is now live on the GST portal.
2. The functionality compares the liability declared in GSTR-1/IFF with the liability paid in GSTR-3B/3BQ for each return period. If the declared liability exceeds the paid liability by a predefined limit or the percentage difference exceeds the configurable threshold, taxpayer will receive an intimation in the form of DRC-01B.
3. Upon receiving an intimation, the taxpayer must file a response using Form DRC-01B Part B. The taxpayer has the option to either provide details of the payment made to settle the difference using Form DRC-03, or provide an explanation for the difference, or even choose a combination of both options.

High Court judgment Opportunity of hearing is mandatory before passing order on cancellation of registration:

HIGH COURT OF GUJARAT
VIP Chem Traders
v.
Union of India

FACTS:

The petitioner is a proprietary firm having its registered office at Bharuch in Gujarat.

It has GSTIN number registered and is engaged in the supply of carbonates sodium hydroxide etc.

The petitioner received notice dated 06.12.2022 in which respondent Commissioner of State Tax, Ahmedabad, inter alia stated that the registration of the petitioner was liable to be cancelled. The reason was given that “returns not furnished by you under section 39 of the Central Goods and Services Tax Act, 2017”.

HELD:

The process of adjudication post issuance of show-cause notice would necessitate observance of natural justice and providing reasonable opportunity to the petitioner to defend his case and submit appropriate facts and details in relation to the show-cause notice.

In light of the above, following directions are issued,

- i. Before proceeding further pursuant to the show-cause notice, the petitioner shall be given four weeks time to file reply and also shall be given personal hearing for which the date shall be intimated to the petitioner.
- ii. After filing the reply and personal hearing is given, the authority shall decide the issue of cancellation of GST registration.
- iii. The competent authority shall take appropriate decision within further four weeks.
- iv. The petition stands disposed of in aforesaid terms

Companies Act, 2013

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MCA provides relaxation in paying the additional fees in case of delay in filing DPT-3 return for FY ending on 31/03/2023 till 31/07/2023:

MCA vide General Circular no. 06/2023 dated June 21, 2023 states as follows:

The due date for filing Form DPT-3 (Return of Deposit) is 30/06/2023 for the Financial Year ending on 31/03/2023. Further in view of transition from V2 to V3 portal, MCA has decided to allow companies to file DPT-3 return for Financial Year ending on 31/03/2023 without additional fees up to 31/07/2023.

E-form CSR-2 (Return on Corporate Social Responsibility):

MCA vide notification dated May 31, 2023 notified Companies (Accounts) Second Amendment Rules, 2023 which shall come into effect with effect on the date of its publication in Official Gazette which notifies as follows:

In the Companies (Accounts) Rules, 2014, in rule 12, in sub-rule (1B), after the second proviso, the following proviso is inserted:

“Provided also that for the financial year 2022-2023, Form CSR-2 shall be filed separately on or before 31st March, 2024 after filing Form No. AOC-4 or Form No. AOC-4-NBFC (Ind AS), as specified in the rules or Form No. AOC-4 XBRL as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015 as the case may be.”

SEBI introduces alternative dispute resolution mechanism for market intermediaries to promote dispute settlement:

SEBI has notified SEBI (Alternative Dispute Resolution Mechanism) (Amendment) Regulations, 2023, and introduced a dispute resolution mechanism.

The provisions are effective from 03.07.2023.

As per the amended norms, certain disputes shall be submitted to a dispute resolution mechanism.

Further, respective amendments have been carried out in various regulations such as SEBI (Merchant Bankers) Regulation, SEBI (Debenture Trustees) Regulation, SEBI (Mutual Fund) Regulation etc.



Government Scheme Updates

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Industry News:

Maharashtra New textile industry: Govt aims to attract Rs 25,000-cr Investment

The Maharashtra cabinet on 30th May 23 approved the new textile industry policy, which officials said was aimed at attracting investment of Rs 25,000 crore in the sector in the near future – in a bid to boost investment in the state's cotton production industry.

There will be an increase in the cotton processing capacity in the state from 30% to 80% in the next five years and will likely attract investment of Rs 25,000 crore and generate employment up to 5 lakh.

The Textile Commissionerate and the silk directorate will be merged to form the Textile and Silk Commissionerate, and the office at the regional level will be known as the Regional Deputy Commissioner – Textile and Silk.

The authorities aim to establish six technical textile parks across the state under the policy, adding that the Maharashtra Technical Textiles Mission will also be undertaken to ensure “aggressive growth” of the sector. The Technical Textiles sector is undergoing a paradigm shift in technology, leading to faster and more efficient systems. To promote research and development in these emerging technologies, a fund of Rs 50 crore will be earmarked every year.

The Maharashtra State Textile Development Corporation (MSTDC) a statutory corporation will be created through a functional merger of the existing three corporations to develop a sustainable and fertile environment for the growth of the state's textile industry.

The state will also implement an integrated plan for the development of the silk industry. To promote the sector, the government is set to prepare a scheme with detailed guidelines to provide one free saree to every family below the poverty line every year.



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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

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