

NewsBites

Forty-Eighth Edition

Greetings!

We are delighted to present our news bite for the month of March 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

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Income Tax

Amendments in Finance Bill 2022:

Finance Bill, 2022 has been passed in Lok Sabha on 25th March, 2022 with 39 amendments to the Finance Bill, 2022 introduced on 01.02.2022 by Hon'ble FM with some important clarifications as under:

- Losses from one type of crypto or Virtual Digital Asset (VDA) cannot be set off against gains from other type of crypto or VDA while calculating income tax.
- Penalty on claiming deduction of cess and surcharge paid in earlier years has been streamlined due to retrospective disallowance of the same. The assessee either needs to pay 50% penalty on such incorrect allowance OR may make an application to seek re-computation of the total income of the concerned year and pay tax and interest without penalty.
- The penalty introduced by Finance Bill, 2022 on publishing Import-Export data to the tune of Rs. 50,000 and/or imprisonment of upto 6 months has been rationalized and now, the punishment will only include imprisonment.

Extension of timeline for electronic filing of Form of Form No. 10AB:

Form 10AB -All trust or institutions that obtain the provisional enrollment or approval for a 3-year duration would be needed to make the application in Form No.10AB in 6 months post to the start of the charitable activities. These trusts would obtain a permanent enrollment post to make the application in Form No. 10AB.

CBDT further extends last date for e-filing of Form No. 10AB to 30/09/2022, in all the cases for which the last date is on or before 29/09/2022, in view of difficulties being faced by the stakeholders in electronic filing thereof.

High court held that fee for delay in furnishing TDS/TCS statement is applicable only w.e.f. 01/06/2015.

Following is summary of case:

HIGH COURT OF KERALA
Eurotech Maritime Academy (P) Ltd.
v.
Income-tax Officer (TDS)*

Facts of the case

Petitioner has been called upon to pay the late filing fee under section 234E of the Income-tax Act, 1961 (for short, 'the Act').

As per the aforesaid intimations, amounts have been demanded as late fee for the periods from 2012-13 to 2014-15 based on the provisions in section 234E of the Act, which is as follows:

"234E Fee for default in furnishing statements.—(1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues."

Though section 234E of the Act was introduced by the Finance Act, 2012 with effect from 1st July 2012, since petitioner is being demanded late fee for not filing the statement of tax deduction at source, it is necessary to refer to section 200A of the Act. Section 200A(1) incorporated clause (c) to clause (f) with effect from 1-6-2015. Sub-clause to section 200A (1) refers to the fee if any



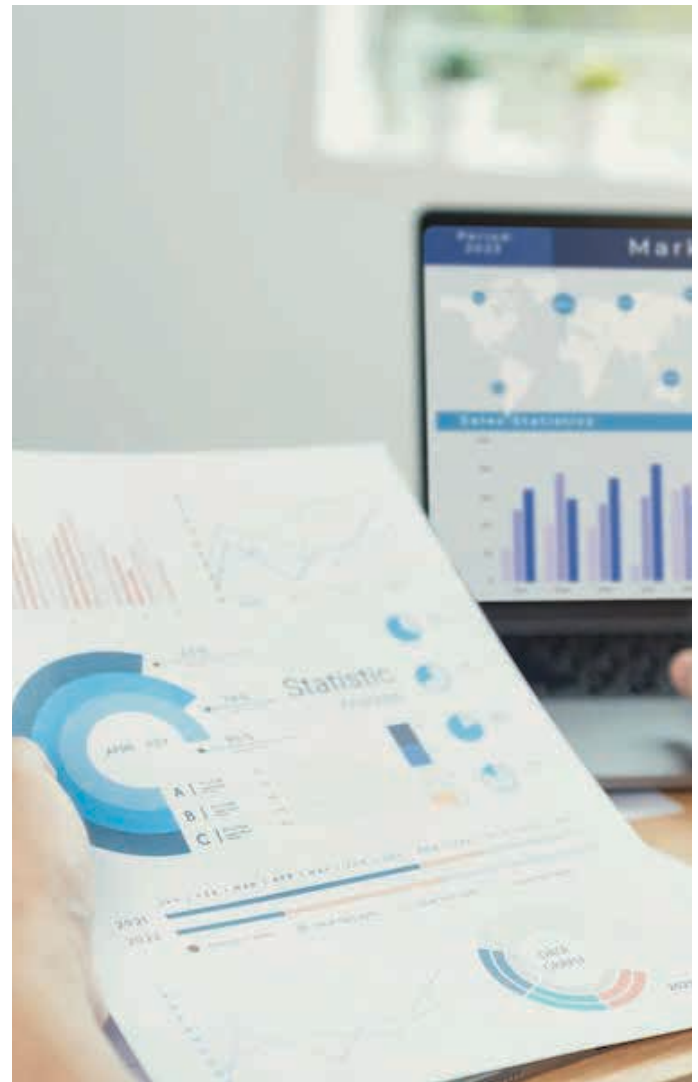
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to be computed in accordance with the provisions of section 200A(1)(e). It is the claim of the petitioner that till 1-6-2015 petitioner cannot be mulcted with any liability to pay late fee for non-filing of any statement of tax deduction at source.

Held

Learned counsel for the petitioner brought to my attention the decision in *Sarala Memorial Hospital v. Union of India* wherein an identical question arose for consideration. After considering the statutory provisions and the implications of the amendment brought into the Act, it was held that the amendment would take effect only with effect from 1st June 2015 and is thus prospective in nature. It is submitted that the aforesaid judgment has become final and is binding upon the authorities.

Accordingly, intimations to the extent it demands late fee under section 234E for the assessment years from 2012-13 till 2014-15 is bereft of authority and cannot be legally sustainable & same is quashed.



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Goods & Services Tax

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HC levied penalty on officer demanding unnecessary documents for grant of GST registration

Following is summary of case

HIGH COURT OF ALLAHABAD
Ranjana Singh
v.
Commissioner of State Tax

Facts of the case

Ranjana Singh ("the Petitioner") is engaged in the business of providing employment through consultancy, which fall within the purview of the 2017 ("the UPGST Act"). On August 17, 2021, the Petitioner applied for grant of registration under the UPGST Act through online mode. The Petitioner had provided the documents as per Section 25 of the UPGST Act and Rule 8 and 9 of the Uttar Pradesh Goods and Services Tax Rules, 2017. On submission of the application, an inspection was made at the business premises of the Petitioner on September 15, 2021, and thereafter, show cause notice was issued for providing certain information and documents in support thereof. On submission of reply, by means of the order dated September 23, 2021 the application of the Petitioner was rejected, against which the Petitioner preferred an appeal which too has been dismissed vide order dated October 28, 2021 ("the Impugned Order").

Held – Authority should not have insisted for submission of receipt of electricity bill – Place of business is under ownership of petitioner as sole proprietor and house tax receipt was submitted in compliance with show cause notice – Petitioner had every right to carry on business lawfully when shortcomings or defects were not pointed out in reply submitted along with documents – Impugned order was quashed – Authorities had acted only to harass petitioner; therefore, costs of Rs. 15,000 was imposed which may be recovered from erring officer

Standard operating procedure has been issued by CBIC

CBIC has issued Standard Operating Procedure (SOP) for scrutiny of returns for FY 2017-18 and FY 2018-19 by giving Notice in Form ASMT-10 to ensure uniformity in selection/identification of returns for scrutiny, methodology of scrutiny of such returns and other related procedures. The indicative list of parameters for scrutiny of returns has also been given under the SOP.

Note: Department is using this provision (given under Section 61 of the CGST Act, 2017) since inception of the GST regime but by issuing this SOP, the CBIC has streamlined the process from the start of scrutiny till the issuance of order in Form ASMT-12.



Companies Act, 2013

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MCA extended due dates for various compliances:

- MCA has issued a notification relating to the Companies (Accounts) Second Amendment Rules, 2022 to further amend the provisions of the Companies (Accounts) Rules, 2014, which shall come into force with effect from the date of its publication in the Official Gazette i.e 31-03-2022. MCA has once again extended the implementation of Audit Trail software to the financial year commencing on or after April 1, 2023. Earlier the same was extended to April 1, 2022 from April 1, 2021.
- MCA has also extended the due date of filing Form CSR-2 to May 31, 2022 from March 31, 2022. All companies which are eligible for CSR are required to file Form CSR-2 and shall ensure to file it separately for the preceding financial year i.e., 2020-2021, on or before May 31, 2022, after filing Form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS), as is applicable.

RBI, vide its notification dated March 14, 2022, has notified the Reserve Bank of India (Regulatory Framework for Microfinance Loans) Directions, 2022:

The provisions of these directions shall apply to the prescribed entities which include all Commercial Banks (including Small Finance Banks, Local Area Banks, and Regional Rural Banks) excluding Payments Banks; All Primary (Urban) Cooperative Banks/ State Co-operative

Banks/ District Central Co-operative Banks; and All Non-Banking Financial Companies (including Microfinance Institutions and Housing Finance Companies).

Through these directions, RBI has allowed microfinance lenders to fix interest rates on loans with a rider that those should not be usurious for the borrowers. A microfinance loan is defined as a collateral-free loan given to a household having an annual income of up to ₹3 lakh. Each regulated entity (RE) should put in place a board-approved policy regarding the pricing of microfinance loans and disclose pricing-related information to a prospective borrower in a standardized simplified factsheet.

Further, a fair practice code (FPC) based on these directions shall be put in place by all REs with the approval of their boards. The FPC shall be displayed by the RE in all its offices and on its website. The FPC should be issued in a language understood by the borrower. Each RE shall also put in place a mechanism for identification of the borrowers facing repayment-related difficulties, engagement with such borrowers and providing them necessary guidance about the recourse available.

Government Scheme Updates

Industry News:

Subsidy for Large Scale Industries in No Industry Districts, Naxalism Affected Areas and Aspirational Districts:

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
No Industry Districts, Naxalism Affected Areas* & Aspirational Districts**	100	250	100%	9

- Aspirational Districts – Osmanabad, Gadchiroli, Washim and Nandurbar
- No Industry Districts – Hingoli, Gadchiroli
- 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, total incentives admissible to the eligible unit will not exceed 100 % of eligible FCI
- Two more years of eligibility to avail the incentives

Basket of Incentives for LSI Projects:

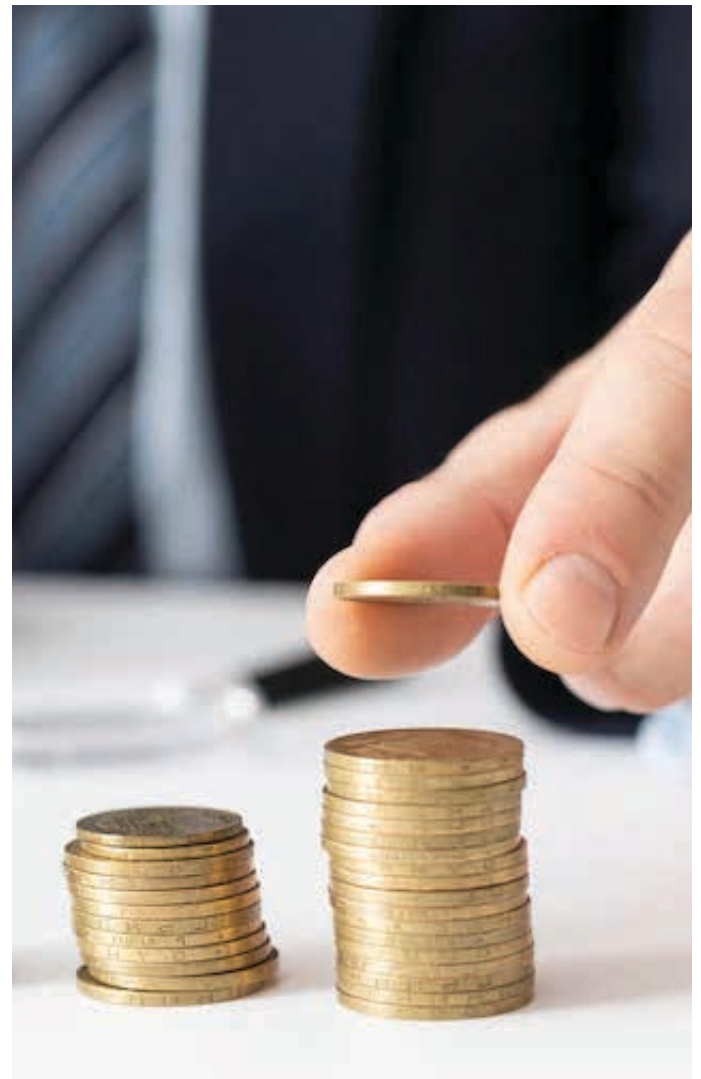
- Industrial Promotion Subsidy – 50% of Gross SGST refund for new/expansion units.
- Stamp Duty Exemption for Land & Term Loan: New Units as well as Units undertaking Expansion / Diversification will be exempted from payment of Stamp duty during the Investment period.
- Electricity duty exemption for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

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Naxalism affected areas

(Government Resolution of Planning Department No. NAVIKA 2008 /C.R.209 / Ka.1416, dated 31/05/2009)

Sn.	District	Talukas
1.	Gadchiroli	All Talukas
2.	Gondiya	All Talukas
3.	Chandrapur	Chandrapur, Gondpipri, Rajura, Korpana, Jiwati, Ballarsha, Pombhurna, Mul, Sawali
4.	Bhandara	Sakoli, Lakhandur, Lakhani
5.	Yavatmal	Pandharkawda, Wani, Zari-Jamdi, Ghatanji, Arni
6.	Nanded	Kinwat



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