

NewsBites

Forty-Third Edition

Greetings!

We are delighted to present our news bite for the month of October 2021. 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



CBDT rolls out Annual Information Statement (AIS) to provide details of taxpayer's financial information.

- Income Tax Department has rolled out the new Annual Information Statement (AIS) on the Compliance Portal which provides a comprehensive view of information to a taxpayer with a facility to capture online feedback. The new AIS can be accessed by **clicking on the link "Annual Information Statement (AIS)" under the "Services" tab on the new Income tax e-filing portal (<https://www.incometax.gov.in>)** The display of Form 26AS on TRACES portal will also continue in parallel till the new AIS is validated and completely operational.
- The new AIS **includes additional information relating to interest, dividend, securities transactions, mutual fund transactions, foreign remittance information** etc. The reported information has been processed to remove duplicate information. Taxpayer will be able to download AIS information in PDF, JSON, CSV formats.
- The taxpayers are requested to view the information shown in Annual Information Statement (AIS) and provide feedback if the information needs modification. **The value shown in Taxpayer Information Summary (TIS) may be considered while filing the ITR.** In case the ITR has already been filed and some information has not been included in the ITR, the return may be revised to reflect the correct information.
- If the taxpayer feels that the information is incorrect, relates to other person/year, duplicate etc., **a facility has been provided to submit online feedback.** Feedback can also be furnished by submitting multiple information in bulk. An AIS Utility has also been provided for taxpayers to view AIS and upload feedback in offline manner. The reported value and value after feedback will be shown separately in the AIS. In case

the information is modified/denied, the information source may be contacted for confirmation.

- In case there is a **variation between the TDS/TCS information, or the details of tax paid as displayed in Form 26AS on TRACES portal and the TDS/TCS information or the information relating to tax payment as displayed in AIS** on Compliance Portal, the taxpayer may rely on the information displayed on TRACES portal for the purpose of filing of ITR and for other tax compliance purposes.
- Taxpayers should remember that **Annual Information Statement (AIS) includes information presently available with the Income Tax Department.** There may be other transactions relating to the taxpayer which are not presently displayed in Annual Information Statement (AIS). Taxpayers should check all related information and report complete and accurate information in the Income Tax Return.

ITAT ruling on Sum received from husband with no intention to repay isn't loan; no violation of Sec. 269SS.

As per sec 269SS read with sec 271D if a person accepts any loan in contravention of the provisions of section 269SS of the Income-tax Act (i.e. Accepting loan in excess of Rs. Twenty thousand in cash), he shall be liable to pay, by way of penalty, a sum equal to the amount of loan or deposit so taken or accepted. In the following ITAT ruling it was held that Sum received from husband with no intention to repay isn't loan; no violation of Sec. 269SS.

Following are the highlights of ITAT Jaipur Bench ruling of Smt. Meera Devi Kumawat vs. Joint commissioner of Income Tax range (4) Jaipur ([2021] 132 taxmann.com 21 (Jaipur - Trib.))



- Where assessee received substantial amount of cash from her husband which was used to purchase property for residence of family members, since amount was used for benefit of family not for business purpose and Assessee provided reasonable explanation justifying cash transactions, no penalty could be levied under section 271D for violation of section 269SS.
- The transaction was not loan as no interest element was involved and there was no promise to return amount with or without interest.
- In instant case, where the family of the assessee was guided by its internal family requirement and at the same time, pooling in the family funds especially where the assessee did not have any known sources of income, the explanation of the assessee deserved to be appreciated and the approach of the revenue needs to be flexible for appreciating the reasonability of the explanation so submitted by the assessee.
- Further, the assessee had explained the payment of construction expenses which were required to be incurred in cash towards the purchase of construction material and payment to labourers.
- Therefore, sum received from husband with no intention to repay isn't loan and there is no violation of Section 269SS





Goods & Services Tax

Apex Court reversed the Delhi High Court decision that allows rectification of Form GSTR-3B. (Union of India Vs. Bharti Airtel Ltd.)

Facts

- The brief facts of the case were that the **Respondent (Bharti Airtel Limited)** was facing several problems while their filing of GSTR Form 3B due to the several glitches that were occurring in the Online GST Portal. Amidst these glitches, the Respondent filed their GST returns for the period of July, 2017 to September, 2017 with excess amount of Rs. 923 Crores and therefore, they have sought the refund accordingly.
- Accordingly, the Delhi HC allowed the present petition and permitted the respondent (Bharti Airtel Ltd) to rectify Form GSTR-3B for the period to which the error relates, i.e. the period from July, 2017 to September, 2017. The Delhi HC also directed the Respondents that on filing of the rectified Form GSTR-3B, they shall, within a period of two weeks, verify the claim made therein and give effect to the same once verified.
- In July 2020, the Central Government (**“the Appellant”**) moved to the Supreme Court challenging the Delhi HC order of grant of refund. While authorities claimed the Respondent had under-reported Input Tax Credit (**“ITC”**) from July, 2017 to September 2017, the Respondent said it had paid excess tax of ₹ 923 Crore on inputs based on estimates since the Form GSTR-2A was not operational during the error period.
- **The Supreme Court** [CIVIL APPEAL NO. OF 2021 (ARISING OUT OF S.L.P. (C) NO. 8654 OF 2020)]– Allowed the Appellant’s plea against the Delhi HC Order that had directed to issue the tax refund to the Respondent by rectifying its GST return for July, 2017 to September 2017 and observed as under:

It was held by Apex court in its ruling that where High Court by impugned judgment allowed writ petition filed by respondent Airtel and read down paragraph 4 of Circular No. 26/26/2017-GST dated 29-12-2017 issued by Commissioner (GST), Government of India, to extent it restricted rectification of Form GSTR3B in respect of period in which the error had occurred, **it was held that challenge to the impugned Circular No. 26/26/2017-GST dated 29-12-2017, is unsustainable as stipulations in stated Circular are consistent with provisions of the 2017 Acts and Rules framed thereunder and, therefore, there is no necessity of reading down paragraph 4 of the impugned Circular as has been done by High Court vide impugned judgment.**

Resumption of Blocking of E-Way Bill (EWB) generation facility:

1. The blocking of E way bill generation facility had been temporarily suspended by Government on account of Covid pandemic. In terms the E Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their return in Form GSTR-3B / statement in CMP-08, for consecutive two tax periods or more, whether Monthly or Quarterly.
2. The blocking of EWB generation facility has now resumed on the EWB portal for all the taxpayers. Going forward, from the tax period August, 2021 onwards, the System will periodically check the status of returns filed in Form GSTR-3B or the statements filed in Form GST CMP-08 as per the regular procedure followed before pandemic, and block the generation of EWBs as per rule.
3. To avail EWB generation facility on EWB Portal on continuous basis, you are, therefore, advised to file your pending GSTR 3B returns/ CMP-08 Statement on regular basis.

Companies Act

Companies Act

Relaxation on levy of additional fees in filing of various forms for the financial Year 20-21:

- MCA vide General Circular No. 17/2021 dated 29th October, 2021, has decided that no additional fees shall be levied on companies up to 31st December, 2021 for the filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non XBRL, MGT-7 / MGT-7A in respect of the financial year ended on 31st March, 2021.

Further during the said period, only normal fees shall be payable for the filing of above captioned e-forms.

- MCA vide General Circular No. 16/2021 dated 26th October, 2021, has decided that no additional fees shall be levied on LLP's up to 30th December, 2021 for the filing of e-form LLP-8 (the Statement of Account and Solvency) in respect of the financial year 2020-21.

Further during the said period, only normal fees shall be payable for the filing of above captioned e-form.

Further extension of last date of filling of Cost Audit Report to the board of Directors under Rule 6(5) of the Companies (Cost Records and Audit) Rules, 2014:

Due to COVID-19 Pandemic and in continuation of Ministry's General Circular No. 15/2021 dated 27/09/2021, MCA has decided to further extend the date of Cost Audit Report for the Financial Year 2020-21 to be submitted by the Cost Auditor to the Director of the Companies till **30th November, 2021**.

Thereafter, the Cost Audit report shall be filed in e-form CRA-4 within 30 days from the date of receipt of the copy of Cost Audit Report by the Company.

Corporate Liquidation Process:

The Insolvency and Bankruptcy Board of India vide notification dated September 30, 2021, makes following regulation to further amend the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016:

These regulations may be called the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2021.

The liquidation regulations provide for a consultation committee known as the stakeholders' consultation committee (SCC), which has representation from secured financial creditors, unsecured financial creditors, workmen and employees, government, other operational creditors, and shareholders/partners to advise the liquidator on matters relating to the sale.

The amendment expands the scope of consultation to cover all aspects related to the sale of assets and the appointment of professionals.

The amendment regulations also provide for the manner of selection of representatives of stakeholders in SCC. The participation of a large number of buyers in the process is key to a better realization of value for the stakeholders.

Government Scheme Updates

Industry News:

Subsidy for Large Scale Industries in D Zone:

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
D	250	500	60%	7

- 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.

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