

NewsBites

Thirtieth Edition

Greetings!

We are delighted to present our news bite for the month of September 2020. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, audit and assurance, GST and secretarial compliances in the industry.

We hope you find this useful. For any feedback you can reach to us at info@sanca.in.

Best Regards,
S A N & CO.
Chartered Accountants

Contents

Income Tax

- | | |
|--|---|
| 1. TCS on Sale of Goods exceeding INR 50 Lakhs with effect from 01.10.2020 | 2 |
| 2. Income tax return filing deadline for FY 2018-19 extended to 30.11.2020 | 2 |
| 3. Vodafone wins arbitration against India..... | 2 |

Goods & Service Tax

- | | |
|--|---|
| 1. Why September 2020 is important to monitor for GST compliance | 4 |
| 2. Due date for GST Annual Return for FY 2018-19 extended | 5 |

The Companies Act, 2013

- | | |
|---|---|
| 1. Due date for completing pending non-compliance for Companies & LLP without paying penalty extended to 31.12.2020 | 6 |
| 2. Due date to conduct Annual General Meeting (AGM) extended to 31.12.2020 | 6 |
| 3. Other important relaxations in lieu of Covid-19 | 6 |

Government Scheme Updates

- | | |
|--|---|
| 1. Micro & Small Enterprises – Cluster Development Programme (MSE-CDP) | 7 |
| 2. Period of IT / ITES Policy – 2015 extended | 8 |

Income Tax

TCS on Sale of Goods exceeding INR 50 Lakhs with effect from 1-10-2020

Background:

Finance Bill, 2020 brought in levy of TCS (0.1% or 1% in case PAN/Aadhaar not provided by Buyer) on sale of goods for which sales consideration is received exceeding Rs. 50,00,000 during the financial year.

Tax Collected at Source (TCS) is the tax payable by a **seller** which he **collects** from the **buyer**. The rate of TCS is different for goods specified under different categories. Section 206C of the Income Tax Act, 1961 specifies the categories of goods on which seller has to collect tax from the purchasers.

Applicability: The provisions shall be made **effective from 1st October 2020. It states that:**

- A **Seller** of Goods is liable to collect TCS from **Buyer** on Sale of **any goods**.
- Turnover of seller is more than ₹10 Crores in previous financial year.
- TCS to be collected if the **Value/Aggregate Value** of Goods is more than **₹50 Lakhs in a financial year**.
- TCS to be collected on [**Total Sale Value – ₹50 Lakhs**].
- This **shall not be applicable in case the buyer is Importer or transaction is an export**.
- TCS provisions are not applicable on sale of goods which are already covered under other sub-sections of S.206C viz. Liquor / Scrap sales, Motor Vehicles etc.
- TCS provisions are not applicable where buyer is required to deduct TDS on such purchases.

Applicable Rates:

TCS rates on Sale of goods

Rates	Applicability
0.075%	From period 01.10.2020 to 31.03.2021
0.10%	From 31.03.2021 onwards
1.00%	If buyer does not have PAN

Income tax return filing deadline for FY 2018-19 extended to November 30, 2020

In view of the constraints due to the COVID pandemic and to further ease compliance for taxpayers, CBDT extended the due date for filing of Income Tax Returns for FY 2018-19 (AY 2019-20) from 30th September, 2020 to 30th November, 2020. The announcement was made on official twitter handle of Income Tax Department.

₹20,000 crores retrospective tax case: Vodafone wins arbitration against India

UK telecom major Vodafone Group Plc on Friday won an international arbitration against India over retrospective tax demand of ₹20,000 crore. The Permanent Court of Arbitration in The Hague ruled that conduct of Income Tax Department is in breach of 'fair and equitable' treatment.



image: Freepik.com

The tribunal ruled that the Indian government's imposition of a tax liability on Vodafone is in breach of the investment treaty agreement between India and the Netherlands.

The tribunal, in its ruling, said the government must cease seeking the dues from Vodafone and should also pay 4.3 million pounds (\$5.47 million) to the company as partial compensation for its legal costs.

The issue goes back to 2007 when Vodafone bought a 67 percent stake in Hutchison Essar for USD 11.1 billion. At the time, the Indian tax authorities had termed the structure of the multi-billion dollar transaction as a tax avoidance scheme and had slapped a demand of Rs 20,000 crore, including a penalty. The issue saw litigation, stretching all the way up to the Supreme Court and in 2012, the Supreme Court of India had quashed the tax demand, ruling in Vodafone's favour.

Soon after the SC verdict, the then Finance Minister, moved an amendment bill in the Parliament, which featured retrospective amendments going back to 1962. These amendments, after vetting from the parliament, allowed the tax department to overturn the Supreme Court Judgment in Vodafone's favour and to again raise the Rs 20,000 crore tax demand.

In April 2014, Vodafone International Holdings initiated arbitration proceedings under the India – Netherlands Bilateral Investment Treaty. It is under this treaty, that the Permanent Court of Arbitration in Hague had conducted hearings between the two sides.

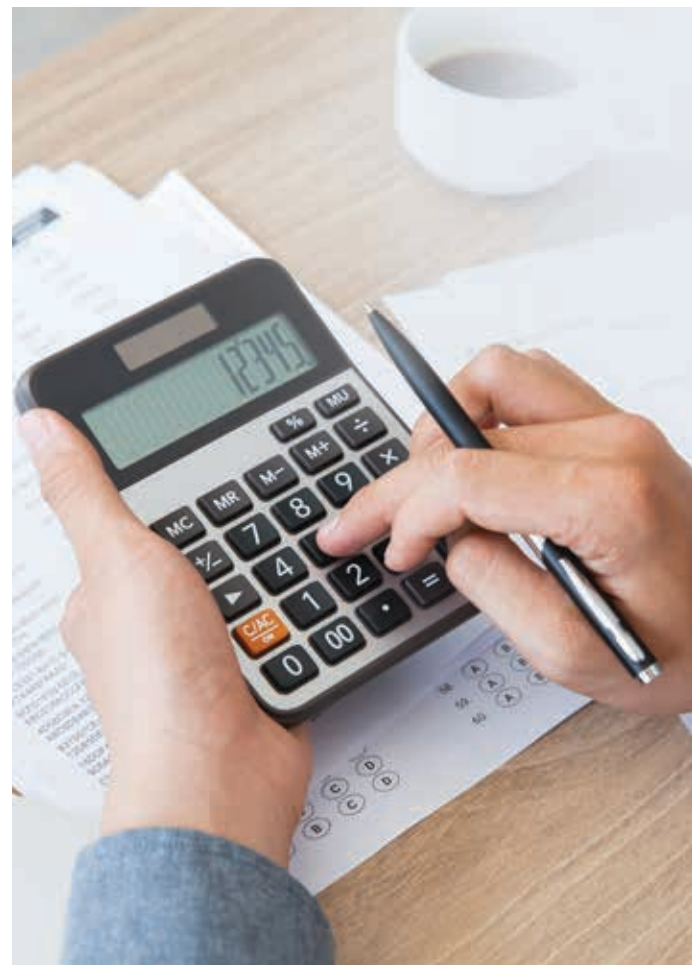


image: Freepik.com



GOODS & SERVICES TAX

Why September 2020 is important to monitor for GST compliance

ITC on invoices pertaining to 2019-20 or debit notes relating to invoices pertaining to 2019-20 can be availed any time till the due date of filing of the return for the month of September 2020 or the date of filing of the relevant annual return, whichever is earlier.

Cumulative adjustment of ITC up to 110% of the eligible credit for February 2020 to August 2020.

- **Two-way reconciliation:** GSTIN wise and then invoice level reconciliation so that all the invoices pertaining to FY2019-20 are accounted for.
- **Identification of key non-compliant vendors:** Identify the key vendors who have not reported the transactions on which ITC has been taken from Feb to July and follow up with them to report the same in Aug 2020 GSTR-1.
- **ITC reflecting in Sep 2020 return:** In case the ITC has been taken in Feb to Aug, however the same gets reflecting in Sep 2020 GSTR-2A, the question arises whether the ITC shall be available or not. We believe no reversal is needed for such ITC and it shall be available to the taxpayer.
- **Tracking of Reverse charge transactions:** Reconcile reverse charge transactions appearing in GSTR-2A with the books so as to avoid any omission and interest thereon.

Reversal of input of exempt supplies and supplies used for non-business purposes

The exercise of computation of reversal of ITC in respect of supplies used for non-business purposes or exempt supplies needs to be done for every tax period on a provisional basis and then finally at the end of the financial year before the due date of the filing of GSTR-3B for September month i.e. 20th October or through annual return through DRC-03.

Time limit for issuing debit note for invoicing pertaining to FY 2019-20.

Where the tax charged or taxable value in a tax invoice is found to be less than the taxable value or tax payable in respect of that supply, the debit note has to be issued for the residual value. Although there is no time limit to issue a debit note, debit note pertaining to any invoice for FY 2019-20 should be issued before the due date of filing GSTR 3B for September 2020 so that the recipient can take ITC on it.

Time limit for issuance of the credit note

- **No issuance of credit note post-September**
Credit note pertaining to supplies made in FY 2019-20 can be issued not later than the due date of filing of GSTR-3B for Sep 2020 month i.e. October 20, 2020 or due date of filing of annual return, whichever is earlier.

Hence, if a credit note is issued after September 2020 for any supply made during FY2019-20, then GST liability cannot be reduced i.e. it can be routed only through financial credit notes.

- **No acceptance of credit note from vendors post-September**
No GST credit note for any procurements in FY 2019-20 shall be accepted post-Sep 2020. Only a financial credit note shall be accepted.

Matching and Reconciliation of Books and returns

Matching of the following should be done:

1. Credit showed as per GSTR 3B of the vendor and GSTR 2A.
2. Supply as per GSTR 3B and GSTR 1
3. Provisional Credit claimed and the credit actually claimable.
4. Sales and Purchases as per the Books of Accounts and as per the returns
5. Expenses on which GST is payable and expenses on which GST is payable on Reverse Charge basis as per Financial Statements with GSTR 3B

The above points should be kept in mind to avoid any scrutiny notices being issued by the department. It should be also done to identify any liability which has been declared by the vendor but credit is not taken on the same by the due date for filing returns for September or the due date of filing annual returns. It can also be used to identify any mistakes in GSTIN, Invoice/debit note number, etc.

Due date for GST Annual Return for FY 2018-19 extended

After obtaining due clearances from the Election Commission in view of the Model Code of Conduct, Government has extended due date for furnishing Annual Return in GSTR-9 and GSTR-9C for 2018-19 from September 30, 2020 to October 31, 2020.





THE COMPANIES ACT, 2013

Due date for completing pending non-compliance for Companies & LLP without paying penalty extended to 31.12.2020:

- In furtherance to the MCA Circular No. 31/2020, dated 30th March, 2020, MCA vide circular no. 30/2020 dated 28th September, 2020, extended the Companies Fresh Start Scheme, 2020 till December 31, 2020 i.e. defaulting companies can file all their belated documents/forms which were due for filing on any given date and comply with the Act without paying additional penalty.
- In furtherance to the MCA Circular No. 13/2020, dated 30th March, 2020, MCA vide circular no. 31/2020 dated 28th September, 2020, extended the LLP Settlement Scheme, 2020 till December 31, 2020 i.e. defaulting LLP's can file all their belated documents/forms which were due for filing on any given date and comply with the Act without paying additional penalty.

Due date to conduct Annual General Meeting (AGM) extended to 31.12.2020:

- Registrar of Companies (ROC) has accorded its approval to extend the time for Companies to hold the AGM, other than the first AGM, for the Financial Year ended March 31, 2020, which are unable to hold AGM within the due date of hold the AGM i.e. September 30, 2020, by a period of three months from the due date i.e. September 30, 2020, without requiring the companies to file application in E-form GNL-1.

Other important relaxations in lieu of Covid-19:

Ministry of Corporate Affairs has notified further relaxation in respect to the matters in which relaxation was earlier provided:

- 1. Creation or modification of charge:** MCA has further extended the due date from September 30, 2020 to December 31, 2020 for Scheme for relaxation of time for filling of forms related to creation or modification of charges under the Companies Act, 2013.
- 2. Cost Audit Report (E-Form CRA-4):** If Cost Audit Report for the FY 2019-20 by the Cost Auditor to the Board of Directors of the Companies is submitted by November 30, 2020, then the same shall not be considered as violation of Rule 6(5) of Companies (Cost Records and Audit) Rules, 2014. Consequently, the cost audit report for the FY ended March 31, 2020 shall be filled in E-form CRA-4 within 30 days from the date of receipt of copy of cost audit report by the company.

GOVERNMENT GOVERNMENT SCHEME UPDATES SCHEME UPDATES

Micro & Small Enterprises – Cluster Development Programme (MSE-CDP)

Micro, Small and Medium Enterprises (MSMEs) are the backbone of the Indian economy but they face several challenges in production, quality control, testing, marketing, etc. To address these issues, the Government of India and the MSME Ministry are following a cluster development approach as a key strategy for enhancing productivity and competitiveness of small businesses.

A cluster is defined as group of enterprises located within an identifiable and as far as practicable, contiguous area and producing same/similar products/services. Further, the small businesses in a cluster are similar in their methods of production, use of technology and marketing, thereby, face common challenges.

The Micro & Small Enterprises Cluster Development Programme (MSE-CDP) initiated by the MSME Ministry aims to support the sustainability and growth of small businesses in clusters by boosting their technological capabilities, market access, skills, access to capital, and more.

It is also focussing on creating and upgrading infrastructural facilities, flatted factory complexes and Common Facility Centres (CFC's) for machining centre, testing, effluent treatment, improving production processes, and more.

Nature of Assistance

• Common Facility Centres (CFC's)

The programme sets up tangible “assets” such as Common Facility Centres (CFCs), common production/processing centres for balancing, correcting, and improving production lines –a task that cannot be undertaken by individual unit.

The tangible assets established also include design centres, testing facilities, training centres, R&D centres, effluent treatment plant, marketing display/selling centres, common logistics centres, common raw material bank, sales depot, etc.

To set up these facilities. :The government grant is restricted to 70 percent of the cost of the project, up to a limit of Rs. 20 crores. The grant is upto 90 percent for Common Facility Centres in north eastern regions and hilly states. Clusters where more than 50 percent of enterprises are micro, rural, or owned by women or by SC/ST entrepreneurs receive upto 90 percent of the cost of project from the Government.

• Infrastructure Development

Infrastructure Development Projects under the scheme would cover projects for infrastructural facilities like power distribution networks, water, telecommunication, drainage and pollution control facilities, roads, banks, raw material storage, marketing outlets, common service facilities and technological backup services for MSE's in the new/existing industrial estates/areas. Development of Flatted Complexes can also be undertaken under this component.

GOVERNMENT GOVERNMENT SCHEME UPDATES

However, the grant is restricted to 60 percent of the Cost of Project (Rs. 10 crores for Industrial Estate & Rs. 15 crores for flatted factory complex). Government of India grant will be 80% for Projects in NE & Hilly States, Island territories, Aspirational districts/LWE affected districts, industrial areas/estates/flatted factory complex with more than 50% of enterprises are micro/village or women owned or SC/ST units.

Maharashtra's Information Technology/Information Technology Enabled Services (IT / ITES) Policy – 2015 extended from 01st July 2020 till the New Scheme comes in force.

- The provisions of IT/ITES Policy-2015 came into force from 25/08/2015 for the period of five years which has ended on 30th June 2020.
- Government has now decided to extend the period of IT/ITES Policy-2015 from 1st July 2020 till new policy is issued.
- This Maharashtra Government resolution is available on the website www.maharashtra.gov.in. Reference no. for this scheme is 202006251741283510.

NewsBites

SAN & CO.

CHARTERED ACCOUNTANTS

We are professional firm of Chartered Accountants having significant experience across varied industries and business segments, and are best placed to be your trusted advisor. We operate in a completely digital ecosystem to deliver end to end client solutions.

Our services begin with company incorporation and statutory registrations of the entity in India throughout the business cycle until audits and compliances year on year. Our clients are businesses with foreign as well as Indian origins.

As Chartered Accountants, our endeavor is to be repositories of shareholder's trust. We take due care to respect confidentiality of the information obtained in the conduct of our services. We create value by helping organizations become more transparent, efficient and optimize their capabilities.

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

Disclaimer:

The contents of this brochure are for private circulation only and are intended for general marketing and informative purposes only and should not be construed to be complete. This brochure may contain information other than our services and credentials. Such information should neither be considered as an opinion or advice nor be relied upon as being comprehensive and accurate. We accept no liability or responsibility to any person for any loss or damage incurred by relying on such information. This brochure may contain proprietary, confidential or legally privileged information and any unauthorized reproduction, misuse or disclosure of its contents is strictly prohibited and will be unlawful.