



A Monthly E-Newsletter

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The Bottom Line

WHAT'S INSIDE

Direct Taxes **2**

Indirect Taxes **3**

Corporate & Allied Laws **4**

CFO Watch **5**

M&A **5**

In the News **6**

Glossary **7**

About Us **8**

KEY METRICS

Indices

| | | | |
|------------------|--------|--------|---|
| BSE SENSEX | 53,019 | -4.58% | ▼ |
| NSE NIFTY50 | 15,780 | -4.85% | ▼ |
| NASDAQ Composite | 11,029 | -8.71% | ▼ |
| NIKKEI 225 | 26,393 | -3.25% | ▼ |

Currency

| | | | |
|----------|-------|--------|---|
| USD/INR | 78.95 | -1.78% | ▼ |
| EURO/INR | 82.76 | 0.60% | ▲ |
| GBP/INR | 96.12 | 1.65% | ▲ |
| JPY/INR | 0.58 | 3.53% | ▲ |

Note: The month-on-month movement as on June 30, 2022 is represented in percentages
Source: Yahoo Finance, Investing.com



DIRECT TAX

Notifications/Circulars

Guidelines released for deducting tax on benefit/perquisites given to residents

Section 194R, introduced by Finance Act 2022, and applicable from July 1, 2022, requires a person providing any benefit/perquisite to a resident, exceeding INR 20,000 in a year, arising from the business or profession of such resident, to deduct tax at the rate of 10% subject to certain exceptions. Guidelines have been issued by CBDT providing clarifications on various aspects such as perquisites in form of cash, kind or a capital asset, treatment of discounts, rebates, reimbursements, samples given to influencers, valuation of the benefit/perquisite and inclusion of the period from April to June for purpose of calculating the threshold limit, amongst others.

Circular No. 12 dated June 16, 2022

Issues clarified for deducting tax on transfer of Virtual Digital Assets

Section 194S, introduced in Finance Act 2022, applicable from July 1, 2022, requires TDS at the rate of 1% on the payment of purchase consideration to a resident person, on transfer of a VDA. CBDT has released guidelines in respect of transfers taking place on or through an Exchange or otherwise. These guidelines give clarity on whether consideration for transfer of VDA is inclusive of GST, liability to deduct TDS where payment is being carried out through payment gateways, where consideration is in kind or cash or in exchange of another VDA and the threshold limit for deduction and its calculation, amongst others.

Circular No. 13 dated June 22, 2022 and Circular No. 14 dated June 28, 2022

CBDT notifies Cost Inflation Index for FY 2022-23

In order to calculate the inflation-adjusted cost of asset acquisition for computation of capital gains of long-term capital assets, CBDT notifies Cost Inflation Index for FY 2022-23 at 331.

Notification No. 62 dated June 14, 2022

Judicial Rulings

Reimbursement of bandwidth charges neither taxable as Royalty nor FTS

Bangalore Tribunal held that reimbursement of bandwidth charges to non-resident UK company is not taxable as royalty as neither intellectual property has been transferred nor the assessee has been granted any exclusive right to use the same. Further, the Tribunal held that as no technical information, knowledge and skill was available to the assessee which enabled him to use the services independently, such reimbursement cannot be taxable as FTS.

Madura Coats Pvt Ltd v. DCIT (Bangalore ITAT)

Order passed after expiry of time limit is bad in law

As per section 153 of the Income-tax Act, 1961, reference to TPO can be made within 21 months from the end of AY. Further, additional period of 12 months is available to complete the assessment if the reference to TPO is made within the prescribed time period. The Court held that any reference is made to TPO after

Guidelines released for deducting tax on benefit/perquisites given to residents

Issues clarified for deducting tax on transfer of Virtual Digital Assets

Offshore distribution commission income is not 'reasonably attributable' to India

the expiry of time limit is bad in law, then all further proceeding in respect of the same are also bad and accordingly, order passed by Assessing Officer needs to be quashed.

Virtusa Consulting Services Pvt Ltd v. ACIT (Madras High Court)

Offshore distribution commission income is not 'reasonably attributable' to India

The Tribunal held that the assessee conducts portfolio investment in the Indian securities in its capacity as SEBI registered FII and thus the offshore distribution commission income is in the nature of business income. Since the assessee did not carry out any business operation in India and the income was earned for services rendered outside India, it cannot be treated as 'reasonably attributable' to any operation carried out in India and therefore, not taxable in India.

Credit Suisse (Singapore) Ltd. v. DCIT (Mumbai ITAT)

INDIRECT TAX

Circulars / Notifications

Procedure for refund sanction and post-audit of refund claims

Guidelines have been issued for refund sanction and post-audit of refund claims to provide for mandatory uploading of a detailed Speaking Order containing all the necessary details mentioned under the instruction for each refund type. Further, all refund Orders sanctioning/rejecting refund claims amounting to INR 100,000 or more shall be subject to post-audit by the post-audit cell.

Instruction No. 03/2022-GST dated June 14, 2022

Extension of levy of Compensation Cess

The levy of Compensation Cess on specified goods and / or services, as initially imposed for 5 years upto June 30, 2022, has now been extended by another 4 years. Now the Cess shall be levied and collected upto June 30, 2026.

Notification No. 1/2022-Compensation Cess dated June 24, 2022

Recommendations of 47th GST Council meeting: Various recommendations have been made by the Council in its 47th meeting, including:

- Extension of limitation period for filing of refund claims expiring between March 01, 2020 to Feb 28, 2022 including for issuance of demand/Order in respect of erroneous refunds. Limitation for issue of SCN u/s 73 of CGST Act for FY 2017-18 in terms of issuance of Order in respect of demands linked with due date of annual return, extended till September 30, 2023
- Waiver of requirement of mandatory registration for person supplying

goods through e-commerce operator

- Exemption of IGST on import of goods under AA/EPCG/EOU scheme to be continued
- Circulars to be issued on the following to clarify issues related to blocked credits, prerequisites to employees, demand and penalty provisions for transactions involving fake invoices, amongst others
- Annual Return in Form GSTR-9/9A for FY 2021-22 to be filed only by taxpayers having aggregate turnover exceeding INR 20 million
- No requirement to reverse ITC for exempted supply of Duty Credit Scrips by the exporters
- Withdrawal of GST exemption on various services including renting of residential dwelling to business entities (registered persons)
- Hotel accommodation priced upto INR 1,000 per day to be taxed at 12%. Room Rent (excluding ICU) exceeding INR 5,000 per day per patient charged by the hospital to be taxed at 5% without ITC.
- To remove the inverted duty structure, the rates of various goods and services has been rationalized. Such changes in rates shall be effective from July 18, 2022.

These recommendations shall come into effect from the date of issue of their respective Notifications.

Press release dated June 29, 2022

Judicial Rulings

Taxability of Liaison Office

FEMA and GST Acts are entirely different as is the meaning of the term “business” in the two Acts. Any

activity which is not business as per RBI can be construed as business under GST. The order of the AAR was modified and the services rendered by Liaison Office to Head Office were taxable under GST.

M/s Dubai Chamber of Commerce & Industry – Liaison Office (Maharashtra AAAR)

Transfer of business under same PAN

Application was made to determine whether transfer of business by way of merger of two GST registrations or distinct persons was exempt under GST. It was held that change in constitution of business is essential for the transfer to be considered for transfer as a going concern and would be taxable.

M/s Crystal Crop Protection Ltd (AAR Maharashtra)

Negative blocking of electronic credit ledger

The department cannot opt for negative blocking of electronic credit ledger where the claimed fraudulent credit has already been utilized by the assessee.

M/s S.S. Enterprises (Calcutta High Court)

Issuance of SCN

As per provisions of CGST Act, 2017, the SCN for a particular course of action can be either issued under Section 73 (other than fraud or misstatement) or Section 74 (fraud or misstatement) of the said Act. Once the SCN is issued and adjudicated under Section 74, no notice can be issued for the same cause under Section 73 of the Act.

M/s Abhishek Gumber (Delhi High Court)

CORPORATE & ALLIED LAWS

Circulars / Notifications

Relaxation in paying additional fees in case of delay in filing Annual Return form by LLPs

In view of transition from Version - 2 of MCA-21 to Version - 3 and in continuation of MCA General Circular No. 04/2022 dated May 27, 2022, the Ministry has decided to further extend the timeline and allow LLP's to file e-Form-11 for the FY 2021-22 without paying additional fees up to July 15, 2022.

General Circular No. 07/2022 dated June 29, 2022

Additional processes introduced for voluntary removal of name from the Register of Companies

The Ministry has amended the process for voluntary removal of name of Company from the Register of Companies. The key changes are:

- The Registrar shall examine the application made in Form STK-2 and may call for further information or find such application or any document therewith is defective or incomplete in any respect. Applicant shall be informed to remove the defect within 15 days and re-submit the Form, failing which, the Form shall be treated as invalid.
- If even after re-submission, the Form or document is still found defective or incomplete in any respect by the Registrar, a further time of 15 days to remove such defects may be given, failing which the Registrar shall treat the Form as invalid in the electronic record and shall inform the applicant, accordingly.
- Any re-submission of the application made prior to the commencement of these new rules shall not be counted for the purposes of reckoning the maximum number of re-submissions of such Form.

Notification dated June 09, 2022

Relaxation in paying additional fees in case of delay in filing Annual Return form by LLPs

Additional processes introduced for voluntary removal of name from the Register of Companies



CFO WATCH

Additional declaration now required for foreign companies of countries sharing land border with India in specified cases

Security clearance required from MHA for applying DIN for certain individuals

Additional declaration now required for foreign companies of countries sharing land border with India

MCA introduces condition for filing an additional declaration in case of a compromise or an arrangement or merger or demerger between an Indian company and a company or body corporate from a country which shares land border with India. Declaration in Form CAA-16 is to be filed regarding requirement of prior approval under Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, and whether such approval has been obtained.

Requirement of security clearance for certain individuals at the time of applying DIN

MCA has amended the rules regarding appointment and qualification of Directors. The amendment requires obtaining prior security clearance from MHA for a person who is a national of a country which shares land border with India at the time of applying for DIN.

Extension of facility for conducting meetings of REITs and InvITs holders

SEBI has extended the facility to REITs and InvITs to conduct unit holders meeting through Video Conferencing or Other Audio-Visual Means till December 31, 2022.

RBI revises Bank rate upwards by 50 basis points to 5.15 per cent

To ease the inflationary pressure on the economy, RBI in its monetary policy dated June 08, 2022 increased the bank rate by 50 basis points to 5.15 per cent.



MERGERS & ACQUISITIONS

India Q2 dealmaking at a record USD 82 billion while capital markets remain uncertain

India recorded the highest ever deal value in a quarter at USD 82 billion in pending and completed transactions as per the Bloomberg which is almost 10% of the global deal value of USD 827.6 billion. Such trend is an outlier to the global M&A trends for the quarter. Q2 observed some the marquee deals in the Indian corporate history including the merger of HDFC and HDFC bank, Adani's acquisition of Ambuja Cement and the combination of Mindtree and Larsen & Toubro demonstrating consolidation across industries.

In contrast, Russia-Ukraine war and its impact on crude oil and other commodities, inflation, tight monetary policy measures by central banks across the globe have kept the capital markets uncertain. According to Prime Database, 52 Indian corporates raised nearly USD 13.8 billion via IPOs during FY22 while 54 companies had approvals to raise money from the capital markets at the start of FY23 and 43 others had applied for such approval. However, given the current market dynamics, many companies seem to postpone their fund-raising plans. Deferment of fund-raising plans may not just be true for equity but also debt as higher interest rate make debt an expensive option.



IN THE NEWS



Seminars

Session for Finance Executives

- June 22, 2022

Speakers: Sudhakar Viswanathan, India Finance Head – Lincoln Electric Company India, Bharathy K, CFO – Mahindra World City, K Venkatraman, Partner and National Head, Taxation – ASA, Giridharan DK, Partner & Branch Head – ASA, G N Ramaswami, Partner, Assurance – ASA, Sathyabama R, Executive Partner – ASA, G Viswanathan, Director, Accounting and Business Support – ASA, Ramakrishnan Y, Associate Director, Taxation – ASA

Mahindra World City (Chennai) and ASA jointly organized a Session for Finance Executives at MWC Club. It was attended by various participants from the finance fraternity and deliberations were held on the topics of Faceless assessment appeal & penalty proceedings in Income Tax, Critical aspects of Schedule III amendments in Companies Act, Good practices & key controls in some of Internal Financial Control

processes and Recent Supreme Court/High Court/Other Rulings on GST and important circulars & recent trends in GST Audit.

Powering India's Entrepreneurial Journey - June 24, 2022

Guest: Parveen Kumar, Partner and National Head, Assurance

Parveen was invited by ASSOCHAM for an event on Powering India's Entrepreneurial Journey to discuss India's economic growth & entrepreneurship in India providing an informed outlook on the progress of the country.

Articles

New Age Opportunities, Sectoral Potential - June 01, 2022

Author: Himanshu Srivastava, Partner, Business Advisory Services

Published in Business Guide Israel – India 2022, the article covered how growth should focus on all-inclusive welfare, promoting

technology enabled development, energy transition and climate action and create a virtuous cycle starting from private investment, augmented by public capital investment.

No Tax in Holcim and Adani Cement Deal - Truth or Dare?

- June 29, 2022

Authors: Sunil Arora, Partner, Taxation and Ameet Baid, Senior Manager, Taxation

Published in Taxmann, the article talks about Holcim and Adani signing a binding agreement in May 2022 under which Holcim agreed to transfer its India cement business in Ambuja Cements Ltd and ACC Ltd to Adani Group. Given the arrangement of the deal, it is said to be tax neutral on effective transfer of India business. This article examines the deal structure and initial takeaways, including potential implications under the GAAR regime.

GLOSSARY



AAR

Authority for Advance Ruling

AAAR

Appellate Authority for Advance Ruling

AY

Assessment Year

CBDT

Central Board of Direct Taxes

CGST Act

Central Goods & Services Tax Act, 2017

DCIT

Deputy Commissioner of Income Tax

DIN

Director Identification Number Agreement

FEMA

Foreign Exchange Management Act, 1999

FII

Foreign Institutional Investors

FTS

Fees for Technical Services

FY

Financial Year

GAAR

General Anti-Avoidance Rule

GST

Goods and Services Tax

IGST

Integrated Goods & Services Tax

InvIT

Infrastructure Investment Trust

IPO

Initial Public Offer

ITAT

Income Tax Appellate Tribunal

ITC

Input Tax Credit

LLP

Limited Liability Partnership

M&A

Mergers & Acquisitions

MCA

Ministry of Corporate Affairs

MHA

Ministry of Home Affairs

RBI

Reserve Bank of India

REIT

Real Estate Investment Trust

SCN

Show Cause Notice

SEBI

Securities and Exchange Board of India

TDS

Tax Deducted at Source

TPO

Transfer Pricing Officer

VDA

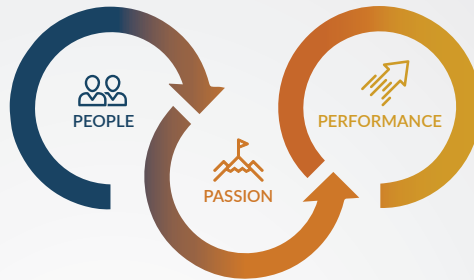
Virtual Digital Asset



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SERVICES

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Well structured teams with domain specialization are guided by leaders who possess expertise and experience and are present PAN India to ensure excellent client service.



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AND ADVISORS

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OF EXPERIENCE

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18 INDIAN LOCATIONS AND 6 FOREIGN DESKS COMBINED WITH INTERNATIONAL AFFILIATIONS ENSURES GLOBAL STANDARDS WITH REGIONAL EXPERTISE



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