

I. Income Tax

a) **CBDT extends Income Tax Return filing deadline from 31st July to 31st August**

The Central Board for Direct Taxes (CBDT) has extended the due date for filing of ITRs for A.Y. 2018-19 from July 31, 2018 to August 31, 2018, for those categories of taxpayers, who were liable to file their ITR by July 31, 2018. Given the fact that the newly instituted penalty of Rs. 5000 would have been applicable, the extension will be a welcome relief allowing assesseees to get accustomed to the new schedule.

[Order bearing F. No. 225/242/2018/ITA dated July 26, 2018]

b) **CBDT has revised the monetary limits for filing of appeal by Tax Department before ITAT, High Court and Supreme Court**

The CBDT has revised the prescribed monetary limits for filing of appeal by the income tax department before the ITAT and High Courts, and SLP before the Supreme Court. The appeals/SLPs shall not be filed by the tax department where the tax effect does not exceed the following monetary limits:

Appeal before	Monetary Limit (in Rs.)
ITAT	20,00,000/-
High Court	50,00,000/-
Supreme Court	1,00,00,000/-

It has also been prescribed that the word 'tax effect' will include the applicable surcharge and cess. However, it will not include any interest thereon, except for a situation where the chargeability of tax is itself under dispute.

The Circular further clarifies that the revised monetary limits shall apply retrospectively to all the pending appeals, and directs the tax officers to withdraw/not to press the appeals wherein the tax effect is less than the limits prescribed.

[Circular No. 3 of 2018 dated July 11, 2018]

c) **CBDT amends the Tax Audit Report in Form 3CD**

The CBDT has issued this Notification amending the Income Tax Rules, 1962 with respect to the Tax Audit Report in Form 3CD, which is required to be certified by an auditor under Section 44AB of the Act. The new Form makes its obligatory for the taxpayer and the tax auditor to report various details, some of which are as under:

- GSTIN of the taxpayer
- Cash receipts more than Rs.2,00,000
- Income by way of gift exceeding Rs.50,000
- Details about 'primary adjustment' under Section 92CE
- Dividend received under Section 2(22)(e) of the Act
- Details with regard to country-by-country (CBC) reporting

These amended Rules shall come into force from 20th August, 2018.

[Notification No. 33/2018 dated July 20, 2018]

d) Supreme Court holds that payment of 15/20% of disputed demand is not mandatory; stay applications have to be dealt with on merits

Supreme Court has held that CBDT's Office Memorandums dated 29.02.2016 and 31.07.2017 by which AOs have been directed to grant stay of disputed demand on payment of 15/20%, does not fetter the powers of the AO or the CIT to grant stay on payment of amounts lesser than 15/20%. The Apex Court has held that the AO/CIT have to deal with prima facie merits and give cogent reasons for rejection of the stay application.

[Pr. CIT v. LG Electronics India Pvt. Ltd. – Supreme Court] (Civil Appeal No. 6850 of 2018 dated 20.07.2018)

e) Supreme Court admits SLP to decide if vacancy allowance is available for flats held as stock-in-trade

Assessee was engaged in business of construction of house property. Some flats constructed by assessee were not leased out during the year. ITAT assessed ALV of those flats as 'income from house property'. High Court also upheld the order of ITAT. Assessee contended before Supreme Court that said flats were its stock-in-trade and that assessee would be eligible for vacancy allowance as per provisions of Section 23(1)(c) of the Act and therefore, ALV of flats could not be brought to tax under the head house property. The SLP filed by the assessee against the impugned order of the High Court has been granted to the assessee.

[Ansal Housing & Construction Ltd. v. ACIT – Supreme Court] (95 taxmann.com 17)

f) No time limit for legal heirs to intimate death of assessee to department; notice in the name of deceased is invalid

High Court in this case has held that the notice issued in the name of a dead person is unenforceable in the eye of law. High Court has further held that merely because the department was not intimated about the death of assessee's husband, whose income was alleged to have escaped assessment, that cannot by itself, extend the period of limitation prescribed under the statute in Section 148 of the Act. Therefore, the impugned notice was held to be without jurisdiction.

[Alamelu Veerappan v. ITO – High Court of Madras] (95 taxmann.com 155)

g) In order to treat capital gains from penny stocks as bogus, department has to show that there is a scam and assessee is a part of the scam

In this case, ITAT has held that the chain of events and the live link of assessee's action showing her involvement in the scam of bogus capital gains should be established by the AO. The Tribunal took note of the fact that assessee submitted voluminous documents in support of its claim such as share certificates, cheque payments, bank statements, contract notes and delivery instructions. Therefore, ITAT deleted the addition concluding that the department cannot rely on an alleged modus operandi and disregard the evidences produced by assessee.



[Navneet Agarwal v. ITO – ITAT Kolkata] (ITA No. 2281 of 2017 dated 20.07.2018)

II. International Taxation

a) CBDT amends forms for Advance Ruling

CBDT has released this Notification amending Rule 44AE of the Income Tax Rules, 1962, which provides for the Forms for obtaining an Advance Ruling. The new Forms 34C and 34D which have been notified by the CBDT seek unique number for the identification of the non-resident taxpayer.

[Notification No. 31 of 2018 dated July 13, 2018]

b) Supreme Court grants SLP against High Court's ruling that foreign tax credit is allowed even in relation to income exempt under Section 10A

In this case, High Court held that section 90(1) provides relief from double taxation where income of assessee is chargeable under Income Tax Act as well as in corresponding law in force in the foreign country. Thus, the High Court concluded that assessee would be entitled to take credit of income tax paid in foreign country even in relation to income which is exempt under Section 10A. SLP filed by the tax department against this order of the High Court has been granted by the Apex Court.

[DCIT v. Wipro Ltd. – Supreme Court] (95 taxmann.com 107)

III. Goods & Services Tax (GST)

a) 28th GST Council Meeting

GST Council had its meeting at New Delhi after a gap of more than 2 months on 21st July, 2018. After deliberating on various issues, the key decisions made by the council are as follows:

- **Rationalization of Rates**
The list of 28% GST items was reduced significantly with TV, Washing Machine, Fridge, Vacuum Cleaners and various other consumer items being brought under 18% GST rate from 28% GST rate. Sanitary napkins have been exempted from GST
- **Returns**
In a marginal relief, the Council approved quarterly GSTR-1 for suppliers having turnover upto Rs.5 Crores. The tax, however, will still have to be paid on a monthly basis only.
- **Reverse Charge Deferred**
Provision of reverse charge on purchase from unregistered suppliers has been deferred till September 30, 2019.
- The threshold limit for registration is proposed to be increased from Rs.10 lakhs to Rs.20 lakhs for 6 north-eastern states including Assam, Arunchal Pradesh, Meghalaya and Uttarakhand.

For complete updates, please click on the link below –

http://www.vedjainassociates.com/?page_id=602&news_id=267&catid=14

b) Clarification for rate of taxes in case of certain services defined at the rate of 5%

- It has been clarified that the rate relating to composite supply of food and drinks in a restaurant, mess, canteen and eating joints and such supplies to institutions (educational, office, factory, hospital) on contractual basis will be taxed at a GST rate of 5%.
 - GST rates for supply, of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms has been defined at the rate of 5%.
 - Supply consisting only of e-book will now be taxed at the rate of 5% GST.
- [Notification No. 13/2018 dated July 26,2018]**

c) High Sea Sales are exempt supply and hence, common Input Tax Credit (ITC) in this regard needs to be reversed proportionately

Advance for Advance Ruling (AAR) in the said case has held that the goods sold on high sea sales being non-taxable supply as per Section 2(78) of the CGST Act and being exempt supply as per Section 2(47) of the CGST Act will not be leviable to tax till the time of custom clearance. Thus, it was concluded that the input tax credit to the extent of common inputs and input services needs to be reversed by the applicant as per Section 17 of the CGST Act.

[BASF India Ltd. – AAR Maharashtra] (95 taxmann.com 1)

d) Discount on sales cannot be deducted from Transaction Value if the same is not pre-determined in the agreement between the parties

The AAR observed that there was no basis or parameter, not even of a personal nature, between the parties to the agreement, on the basis of which discount was given to the dealers by the manufacturer. The Authority further observed that the wordings of Section 15(3)(b)(i) of the CGST Act clearly states that the quantum of discount given after the supply of goods has to be there in the agreement, meaning thereby that the discount to be given has to be mentioned in the terms of the agreement entered into at the time of sale. Thus, the Authority concluded that in the absence of the basis of the quantum of discount, the post-sales discounts offered by the manufacturer to the dealers cannot be deducted from the transaction value under the GST regime.

[UltraTech Cement Ltd. – AAR Maharashtra] (95 taxmann.com 289)

e) Amount received towards forfeited loyalty points would be supply of services and not termination of an actionable claim



In this case, the AAR observed that certain points were forfeited by the applicant on which money had been paid by the issuer of points due to the failure of the end customers to redeem the payback points within their validity period. The Authority held that this forfeiture would amount to consideration received in lieu of services being provided by applicant to its clients and thus would be outside the scope of being considered as actionable claim. Therefore, the Authority concluded that such forfeiture would qualify as supply of services in terms of Section 7 of the CGST Act and would be within the scope of levy of GST.

[Loyalty Solutions & Research (P.) Ltd. – AAR Haryana] (95 taxmann.com 204)

f) Activities of exam support services constitute composite supply along with the principal service of conducting of examination

Certain exam support services such as running of suitable test centers, recruiting training & monitoring invigilators, periodically inspecting the quality of test centers, etc. were carried out by the appellant. The Authority observed that these services constitute a composite supply with the principal supply by the appellant of conducting of examinations, and therefore, each activity would not be taxed separately. Thus, it was concluded that entire examination services will get covered under the Service Code 999299 as Education Support Services and therefore, will be taxable at the rate of 18%.

[BC Examinations & English Services India (P.) Ltd. – AAR Haryana] (95 taxmann.com 215)

IV. Corporate Laws

a) Fee for updation of KYC of Directors

Ministry of Corporate Affairs (MCA) has notified the Companies (Registration Offices and Fees) Third Amendment Rules, 2018, wherein it has prescribed that Nil fee would be charged in respect of e-form DIR-3 KYC which has to be filed on or before 30th April of every financial year and in delayed cases, fee of Rs.5000/- will have to be paid for activation of DIN. It has also been clarified that for the current financial year, no fee shall be chargeable till the 31st August, 2018 and fee of Rs.5000/- would be payable on or after the 1st September, 2018 only.

[Companies (Registration Offices and Fees) Third Amendment Rules, 2018 dated July 5, 2018]

b) Extension of time period for reporting of satisfaction of charge

MCA has notified the Companies (Registration of Charges) Amendment Rules, 2018, wherein it has extended the time period for intimation of satisfaction of charge in form CHG-4 from existing period of thirty days to three hundred days from the date of payment or satisfaction in full of any charge registered under the Companies Act, 2013.

[Companies (Registration of Charges) Amendment Rules, 2018 dated July 5, 2018]



V. Prevention of Money Laundering (PMLA)

a) Mere general reasons that amount received by appellant was generated from proceeds of crime does not amount to money laundering

In the attachment order there was no finding at all as to whether the amount which was received by the appellant was from the alleged tainted money. The Tribunal observed that if the provisional attachment order and prosecution complaint were read together, merely general reasons were given that the amount received by appellant was generated from the proceeds of crime and it amounts to money laundering. The Tribunal held there were no reasons or findings that on the date of receipt of loan, the appellant was aware that the loan was out of proceeds of crime. Therefore, the provisional attachment order was quashed.

[Smt. Shobha Karandlaje v. Dy. Director, Directorate of Enforcement – Appellate Tribunal, PMLA, Bangalore] (Appeal No. 2127/Bng/2017 dated 18.07.2018)

b) Where appellant is not involved in money laundering and property is not purchased from proceeds of crime, provisional attachment is bad in law

In this case, Tribunal observed that there was no nexus whatsoever between the alleged crime and the appellant bank who is the mortgagee of the properties in question which were purchased before sanctioning the loan. Therefore, it was held that no case of money laundering is made out against the appellant, who had sanctioned the amount which is untainted and pure money. It was further held that the appellant had priority right to recover the loan amount/debts which remains unpaid, by sale of assets over which security interest is created.

[Bajaj Finance Ltd. v. Jt. Director, Directorate of Enforcement – Appellate Tribunal, PMLA, Lucknow] (Appeal No. 3975/LKW/2017 dated 28.06.2018)

VI. Compliance Dates

Compliance Particulars	Due Date
1. Income Tax	
Deposit of Tax Deducted/ Collected for the month of July, 2018	7 th August, 2018
Due date for issue of TDS Certificate for tax deducted under section 194-IA and 194-IB in the month of June, 2018	14 th August, 2018
Quarterly TDS certificate for the quarter ending June 30, 2018	15 th August, 2018
Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA and 194-IB in the month of July, 2018	30 th August, 2018
Due date for filing Income Tax Return (ITR) for assessee not liable for tax audit as per Income Tax Act, 1961	31 st August, 2018
2. Goods & Services Tax (GST)	
GSTR-1 for Outward Supplies for the month of July, 2018 (Turnover>1.5 Cr.)	10 th August, 2018
GSTR-3B for the month of July, 2018	20 th August, 2018
3. Companies Act	
DIR-3 KYC for all persons holding DIN	31 st August, 2018