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## Business Support Services

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**Jurisdiction of  
Assessing Officer**

In the case of The Tata Power Co Ltd vs. ACIT Circle 2(3), Mumbai ITAT held that

As per section 2(7A) of the Act, AO means inter alia an Addl. CIT who is directed under section 120(4)(b) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an AO under the Act. As per Section 120(4)(b), the CBDT has to first empower the Commissioner to issue orders and then the said authority has to assign or confer the authority of the AO on the Addl. CIT. In the present case none of such notifications/ orders as required by section 120(4)(b) of the Act have been issued.

Further, as per section 127 of the Act when there is a transfer or jurisdiction, then the condition therein has to be fulfilled. In the present case, originally the jurisdiction to make the assessment over the company was with the DCIT. The assessment order has been passed by the Addl. CIT without any transfer or jurisdiction in his favour. Assessment framed under section 143(3) quashed.

**Bogus Long Term  
Capital Gain on shares**

In the case of Ms Manvi Khandelwal vs. Income Tax Officer, Delhi ITAT has held that :

In the case of Sanat Kumar ITAT Delhi dealt with a similar situation, and made an observation that though the assessee meticulously completed the paperwork by routing his entire investments through banking channel, when the result of an altogether beyond human properties, what is apparent in making investment is not really and the examination of the entire transaction falsifies the same. The conduct of the assessee who is a novice, in investing in the stocks of a company whose financial results are not brilliant and where there is no apparent chance of lucrative gains at the time when such an investment was made - raises reasonable doubt to suspect the bona fides of the transaction and in the absence of any satisfactory explanation offered by the assessee on the vital points raised by the learned Assessing Officer, it is not possible to brush aside the orders of the authorities below. Both the authorities below have the cogent reasons for reaching the conclusions and we find it difficult to interfere with the same. With this view of the matter, we dismiss the grounds of assessee.

**No Capital Gain on  
transfer of property  
from Partner to Firm**

In the case of Shri Mahendra Zalavadia vs. ITO 1(1)(4), ITAT Rajkot has held that

Land was transferred by the assessee to the partnership firm in the year ending as on 31st March 2005 corresponding to the assessment year 2005-06. This fact can be verified from the partner's capital account in the partnership firm which is placed on page 6 of the paper book. Admittedly, the impugned land was transferred by the partners to the firm as capital contribution which was recorded as stock-in-trade in the books of the firm. As such there was no transfer of capital assessee as stock-in-trade in the books of the assessee.

Therefore in our considered view, there cannot be any application of the provisions of section 45(2) of the Act in the hands of the assessee.

Provisions of section 45(3) of the Act requires to take the sale consideration in the case of transfer of any capital asset by the partner to the firm as capital contribution which was recorded in the books of accounts of the firm. In the case on hand, there is no dispute that the value of such assets transferred by the partner to the firm was recorded at the book value which can be verified from the financial statements of the assessee placed on pages 2 to 7 of the paper book. Accordingly, there cannot be any income in the hands of the assessee on account of transfer of such assets as capital contribution. In view of the above, we do not find any infirmity in the order of the learned CIT-A. Hence the ground of appeal of the Revenue is dismissed.

**CBIC mandates quoting Document Identification Number (DIN) on all communications issued to taxpayers from November 8, 2019**

The CBIC has issued a circular on the procedure to be followed for generation and quoting of Document Identification Number (DIN) on any communication issued by the CBIC officers to taxpayers and other concerned persons.

It has been clarified that any specified document issued without the DIN shall be treated as invalid and deemed to have never been issued.

The circular states that a communication may be issued without a DIN in the following exception circumstances:

- ▲ Where there are technical difficulties, or
- ▲ When the communication is required to be issued at a short notice or in urgent situations

However, it has been clarified that in such cases, the communication should be regularised within 15 working days of its issuance.

[Circular No.122/41/2019 - GST dated November 5, 2019]

**Extension of due date for filing Form GSTR-9 and Form GSTR-9C for FY 2017-18 and 2018-19**

Pursuant to various representations received regarding difficulties in filing of Form GSTR-9 (Annual Return) and Form GSTR-9C (Reconciliation Statement), the CBIC has now extended the due dates of the said forms for financial year (FY) 2017-18 and 2018-19 as follows:

Period	Earlier Due Date	Revised Due Date
FY 2017-18	November 30, 2019	December 31, 2019
FY 2018-19	December 31, 2019	March 31, 2020

[Order No. 08/2019-Central Tax dated November 14, 2019]

**Withdrawal of Circular No. 107/26/2019 - GST dated July 18, 2019**

Pursuant to representations received expressing apprehensions on the implications of the Circular No. 107 dated July 18, 2019 providing clarifications on supply of ITES / ITES enabled services as intermediary services, the CBIC has finally withdrawn this Circular.

[Circular No.127/46/2019 - GST dated December 4, 2019]

## **Review of Policy for Non-resident Rupee Accounts**

In terms of existing regulations on “Deposits and Accounts”, any person resident outside India, having a business interest in India, may open a Special Non-Resident Rupee Account (SNRR account) with an authorized dealer for the purpose of putting through bona fide transactions in rupees.

With a view to promote the usage of INR products by persons resident outside India, it has been decided by the Reserve Bank of India (RBI), in consultation with the Government of India, to expand the scope of SNRR Account by permitting person resident outside India to open such account for:

- ▲ External Commercial Borrowings in INR;
- ▲ Trade Credits in INR;
- ▲ Trade (Export/ Import) Invoicing in INR; and
- ▲ Business related transactions outside International Financial Service Centre (IFSC) by IFSC units at GIFT city like administrative expenses in INR outside IFSC, INR amount from sale of scrap, government incentives in INR, etc. The account will be maintained with bank in India (outside IFSC).

It has also been decided, in consultation with the Government of India, to rationalize certain other provisions for operation of the SNRR Account, as under:

- ▲ Remove the restriction on the tenure of the SNRR account opened for the above purposes as the proposed transactions are more enduring in nature.
- ▲ Apart from Non-Resident Ordinary (NRO) Account, permit credit of amount due/ payable to non-resident nominee from account of a deceased account holder to Non-Resident External (NRE) Account or direct remittance outside India through normal banking channels.

All other provisions of the policy on Deposits and Accounts remain unchanged.

*(RBI/2019-20/102/A.P. (DIR Series) Circular No. 09 dated November 22, 2019)*

***Non-compete fees  
received by a non-  
resident, not taxable in  
the absence of a PE in  
India***

Based on the facts and in the circumstances of the case, recently the Mumbai bench of Income Tax Appellate Tribunal in the case of Prabhakar Raghavendra Rao, the tax payer, held that non-compete fees received by a non-resident individual taxpayer shall not be taxable in India unless such non-resident has a permanent establishment (PE) in India. Mere holding of shares in an Indian company cannot be construed to constitute a PE in India.

The Tribunal reiterated that business income in the hands of non-resident will not be taxable in the absence of a business connection/ PE in India, and that business connection is not established merely on account of being a shareholder/ promoter in an Indian company.

*(Prabhakar Raghavendra Rao v. ITO (ITA No.3985/Mum/2018))*

**General Circular** ►  
**regarding extension of**  
**the last date of filing**  
**of Form NFRA-2**

The Ministry of Corporate Affairs vide its circular No.14 dated 27 th November, 2019 stated that, the time- limit for filing Form NFRA-2 is decided as within 90 days from the date of deployment of such form on MCA website.

[http://www.mca.gov.in/Ministry/pdf/NFRA\\_27112019.pdf](http://www.mca.gov.in/Ministry/pdf/NFRA_27112019.pdf)

**General Circular** ►  
**regarding relaxation of**  
**Additional fees and**  
**extension of last date**  
**of filing Forms MGT-7**  
**(Annual Return) and**  
**AOC-4 (Financial**  
**Statement) under the**  
**Companies Act, 2013-**  
**UT of J&K and UT of**  
**Ladakh**

The Ministry of Corporate Affairs vide its circular no.15 dated 28 th November, 2019 informed that, in continuation with earlier General Circular No.13 dated 29.10.2019 [(Relaxation of Additional Fees and extension of last date of filing of Forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013], decided to extend the due date for filing e-form AOC-4, AOC-4 (CFS), AOC-4 XBRL and Form MGT-7 upto 31.01.2020 for companies having jurisdiction in the UT of J&K and UT of Ladakh without levy of additional fees.

[http://www.mca.gov.in/Ministry/pdf/MGTAnnualReturnAOC4FinancialStatement\\_28112019.pdf](http://www.mca.gov.in/Ministry/pdf/MGTAnnualReturnAOC4FinancialStatement_28112019.pdf)

**General Circular** ►  
**regarding extension of**  
**last date of filing of**  
**Form PAS-6**

The Ministry of Corporate Affairs vide its circular no.16 dated 28 th November, 2019 informed that, last date of filing Form PAS-6 [(Reconciliation of Share Capital Audit Report (Half-yearly) pursuant to sub-rule (8) of rule 9A Companies (Prospectus and Allotment of Securities) Rules, 2014)] which is to be filed for half year ended on 30.09.2019 has been decided as within 60 (Sixty) days from the dated of deployment of form.

[http://www.mca.gov.in/Ministry/pdf/FormPAS6\\_28112019.pdf](http://www.mca.gov.in/Ministry/pdf/FormPAS6_28112019.pdf)

**National Company Law** ►  
**Tribunal (Salary,**  
**Allowances and other**  
**Terms and**  
**Conditions of Service**  
**of President and other**  
**Members) Amendment**  
**Rules, 2019**

▲ **Original Rules-**

National Company Law Tribunal (Salary, Allowances and other Terms and Conditions of Service of President and other Members) Rules, 2015.

▲ **Effective Date of Amendment:**

23 rd November, 2019.

▲ **Amendment-**

to amend existing rule to insert new rule 15A (Posting and transfer of members) in the existing rule.

[http://www.mca.gov.in/Ministry/pdf/ActRules\\_28112019.pdf](http://www.mca.gov.in/Ministry/pdf/ActRules_28112019.pdf)

## Due dates for the Month of Jan, 2020\*

Regulation	Due Date	Compliance	Description
<b>Employees' Provident Funds &amp; Miscellaneous Provisions Act, 1952</b>	15-Jan-20	PF Payment	PF Payment for the month of Dec, 2019.
<b>Employees' State Insurance Act, 1948 - (ESIC)</b>	15-Jan-20	ESIC Payment	ESIC Payment for the month of Dec, 2019.
<b>Goods and Service Tax (GST)</b>	10-Jan-20	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of December 2019
	10-Jan-20	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of December 2019
	11-Jan-20	GSTR 1	Return of outward supplies of taxable goods and/or services for the Month of December 2019 (for Assesses having turnover exceeding 1.5 Cr.)
	13-Jan-20	GSTR 6	Return for Input Service Distributors for the month of December 2019.
	20-Jan-20	GSTR 3B	Simple GSTR return for the Month of December 2019.
	31-Jan-20	GSTR 1	Quarterly return of outward supplies of taxable goods and/or services for registered persons with aggregate turnover up to Rs. 1.50 Crores for the quarter September to December 2019
<b>Income Tax Act, 1961</b>	7-Jan-20	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of Dec, 2019.
	15-Jan-20	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under section 194-IA / 194-IB in the month of Nov, 2019
	15-Jan-20	TDS/TCS	Quarterly statement of TCS deposited for the quarter ending December 31, 2019
	30-Jan-20	TDS/TCS	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA / 194-IB for the month of December, 2019
	30-Jan-20	TDS/TCS	Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending December 30, 2019
	31-Jan-20	TDS/TCS	Quarterly statement of TDS deposited for the quarter ending December 31, 2019

\* The above due date calender contains compliances generally applicable to taxpayers and this calender has been compiled by HSCo on basis of data available on various portals and other sources. One should always check applicable compliances based on their business needs and should also check updated due dates, if any, on the government portal before making the compliance.



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