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## Contents

**IncomeTax**

by:  
Manish Parekh



**GST (Goods &  
Service Tax)**

by:  
Anuya Sawant



**FEMA**

by:  
Bhavesh Shah



**International  
Taxation**

by:  
Bhavesh Shah



**Company  
Law**

by:  
Mayura Niphadkar  
Pinkesh Jain



**Compliance  
Calender**

by:  
Pinkesh Jain



**Inform employer of your choice of tax regime else old rates apply for TDS from salary**

Employers will soon start rolling out investment declaration forms, asking employees to indicate their choice of tax regime. The government had introduced a revised tax system in this year's Budget, wherein taxpayers would be given the option to shift to a new tax regime with lower tax rates, but without the usual tax exemptions and deductions. The Central Board of Direct Taxes issued a circular on April 13, 2020, directing all employers to obtain a declaration from employees if they wish to opt for the new tax regime.

If you wish to opt for the new tax regime, you will have to inform your employer through the declaration form. The employer will start deducting tax at source (TDS) accordingly for each month.

<https://economictimes.indiatimes.com>

**Liquidity boost: Government considers tax refunds to large firms**

The government is likely to provide income tax and GST refunds to large companies, to ensure additional liquidity during the Covid-19 crisis induced lockdown. Government officials said the amount is expected to be much higher than the Rs 18,000 crore in refunds being issued to small taxpayers currently.

"Large cases (of refunds) will be dealt with after a week or 10 days, by which we will have issued refunds to small taxpayers," said one official. He added that although about 93% of all refund cases were of small taxpayers, the outgo is small, but in case of large companies it will be higher.

"We are trying to process them as soon as possible, which will also provide some liquidity to industry," the official added

<https://economictimes.indiatimes.com>

**Summons cannot require assessee to be present for Unlimited Period**

In a writ petition filed in the case of Shri Naval Kishore Khaitan vs. Principal Commissioner of I. Tax, Andhra Pradesh High Court has held that:

A perusal of the impugned summons shows that apart from asking the assessee to be present on a particular day, the Assistant Commissioner also directed the assessee not to depart from the premises till he grants permission to do so.

In the considered opinion of this Court, the impugned summons to the extent of asking the assessee to be present for unlimited period till the time he obtains permission from the Assistant Commissioner, is highly unreasonable. Though there is no infirmity in asking the petitioner to be present for enquiry, this Court does not find any justification on the part of the Assistant Commissioner in asking the assessee to be present for unlimited period.

Keeping in view the submissions of the learned counsel for the petitioner and the learned Standing Counsel for respondents, this Court deems it appropriate to direct the petitioner herein to co-operate with the enquiry initiated by the Assistant Commissioner and be present before the officer concerned on the day on which the officer asks the assessee to be present, till 7.00 p.m., or any other time earlier thereto specified by the officer concerned.

### Deposit by partners in firm – No additions u/s 69

In the case of Jayashree Anand Enterprise vs. Income Tax Officer ITAT Hyderabad has held that:

Where any assessee had not carried on any business activity, it cannot be presumed to have earned any income. Assessee has not carried on any business activity and earned any income. In such circumstances, it could only have received capital contribution from the partners. Capital contribution by the partners cannot be treated as income of the assessee and if the partners are not able to explain the sources for their investment, the AO can only make the addition in the hands of the partners and not in the hands of the assessee firm. Further in the dissolution deed of the assessee firm dated 10/04/2000 also, there is a mention of the return of the capital and this deed is not disputed by the AO. Addition made in the hands of the assessee firm is not justified and, therefore, the said addition is deleted.

### Deferment of Reporting under Tax Audit Report U/s 44AB Of the Income-Tax Act

The CBDT has vide Circular No.10 /2020 dated 24th April, 2020 stated that in view of the prevailing situation due to COVID-19 pandemic across the country, the reporting under clause 30C and clause 44 of the Tax Audit Report ( as mentioned below )shall be kept in abeyance till 31st March, 2021.

#### Clause 30C:

30C. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

(b) If yes, please specify:-

(i) Nature of impermissible avoidance arrangement:

(ii) Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:

#### Clause 44:

Break-up of total expenditure of entities registered or not registered under the GST:

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect if entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Relating to other registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

### When the assessee had not written off his liabilities, question of invoking subsection (1) of section 41 of the Act did not arise

In the case of Principal Commissioner vs. Gopala Polyplast Ltd Gujarat High Court held that :

Under sub-section (1) of section 41 of the Act, any amount obtained by an assessee whether by way of remission or cessation thereof, is required to be added to his income in the year of such remission or cessation.

In the facts of the present case, the Assessing Officer has made addition of liabilities in respect of two sundry creditors which according to him, the assessee was not required to pay. The assessee, however, had not written off his liabilities. Thus, there was nothing on record to show that there was any remission or cessation of such liability. Under the circumstances, in the absence of remission or cessation of such liabilities, the question of invoking subsection (1) of section 41 of the Act did not arise. The Tribunal, therefore, did not commit any error in upholding the order passed by the Commissioner (Appeals). No additions to be made.

**80G deduction can be claimed for CSR Expenditure**

In the case of First American ( India) Pvt Ltd vs. ACIT 3(1)(1), ITAT Bangalore has held that:

For claiming benefit under section 80G, deductions are considered at the stage of computing "Total taxable income". Even if any payments under section 80G forms part of CSR payments (keeping in mind ineligible deduction expressly provided u/s.80G), the same would already stand excluded while computing, Income under the head, "Income from Business and Profession". The effect of such disallowance would lead to increase in Business income. Thereafter benefit accruing to assessee under Chapter VIA for computing "Total Taxable Income" cannot be denied to assessee, subject to fulfillment of necessary conditions therein.

AR submitted that all payments forming part of CSR does not form part of profit and loss account for computing Income under the head, "Income from Business and Profession". It has been submitted that some payments forming part of CSR were claimed as deduction under section 80G of the Act, for computing "Total taxable income", which has been disallowed by authorities below.

In our view, assessee cannot be denied the benefit of claim under Chapter VI A, which is considered for computing 'Total Taxable Income'. If assessee is denied this benefit, merely because such payment forms part of CSR, would lead to double disallowance, which is not the intention of Legislature. Authorities below have erred in denying claim of assessee under section 80G of the Act. We also note that authorities below have not verified nature of payments qualifying exemption under section 80G of the Act and quantum of eligibility as per section 80G(1). We are remitting the issue back to Ld.AO for verifying conditions necessary to claim deduction under section 80G

For claiming benefit under section 80G, deductions are considered at the stage of computing "Total taxable income". Even if any payments under section 80G forms part of CSR payments( keeping in mind ineligible deduction expressly provided u/s.80G), the same would already stand excluded while computing, Income under the head, "Income form Business and Profession". The effect of such disallowance would lead to increase in Business income. Thereafter benefit accruing to assessee under Chapter VIA for computing "Total Taxable Income" cannot be denied to assessee, subject to fulfillment of necessary conditions therein.

**CBDT defers applicability of revamped registration procedure for existing and new charitable and research institutions from 1 June 2020 to 1 October 2020**

In deference to various representations made to the Central Government expressing concerns over implementation and for deferment of revamped registration procedure from 1 June 2020 due to the outbreak of COVID-19 and consequent lockdowns in the country and in view of the present unprecedented humanitarian and economic crisis, the CBDT has deferred the implementation of revamped registration procedure for approval/registration/notification of specified charitable and research institutions from 1 June 2020 to 1 October 2020.

Accordingly, the existing registered charitable and research institutions would now be required to file an intimation within three months from 1 October 2020 (i.e. by 31 December 2020). Further, the revamped registration procedure for fresh registrations will also apply from 1 October 2020. The necessary legislative amendments shall be made in due course

**Taxmen are using the lockdown to build stronger cases against defaulters**

The government has asked its tax officers to start collecting and analysing data on all major tax disputes as they are unable to hit the ground due to Covid19 pandemic.

The Central Board of Direct Taxes (CBDT) has asked the tax officers to not issue any notices for now but collect data that will help settle half the pending litigation.

In a note to the tax officers CBDT said that identifying issues in all major tax issues would be crucial during next three months.

Many suspect that due to the increased ground work by the revenue department the tax demands may become more in-depth and lead to more companies paying up.

“There is a major shift in the approach of the government wherein the emphasis is more towards qualitative rather than quantitative measures. The focus is more on identification and strong preparation of cases which are worth picking up for reassessment, said Rahul Garg, partner, Asire Consulting.

<https://economictimes.indiatimes.com>

**Clarification by CBDT for determining Residential status of NRI**

Central Board of Direct Taxes (CBDT) has given following clarification for determining residential status for Non-resident who visited India and had to prolong their stay in India in view of the outbreak of Covid-19:

In order to avoid genuine hardship in such cases, the Board, in exercise of powers conferred under section 119 of the Act, has decided that for the purpose of determining the residential status under section 6 of the Act during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22nd March, 2020 and:

(a) has been unable to leave India on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to 31st March, 2020 shall not be taken into account; or

(b) has been quarantined in India on account of Novel Corona Virus (Covid-19) on or after 1st March, 2020 and has departed on an evacuation flight on or before 31st March, 2020 or has been unable to leave India on or before 31st March, 2020, his period of stay from the beginning of his quarantine to his date of departure or 31st March, 2020, as the case may be, shall not be taken into account; or

(c) has departed on an evacuation flight on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to his date of departure shall not be taken into account.

[\(Circular 11 dated 08.05.2020\)](#)

## Form GST PMT 09 for shifting of wrongly paid GST made effective

The Central Board of Indirect Taxes and Customs (CBIC) has recently introduced Form GST PMT-09 (i.e. a challan) for shifting wrongly paid GST. This enables a registered taxpayer to transfer any amount of tax, interest, penalty, etc. that is available in the electronic cash ledger, to the appropriate tax or cess head under IGST, CGST and SGST in the electronic cash ledger.

Hence, if a taxpayer has wrongly paid tax under the head CGST instead of SGST, he can now rectify the same using Form GST PMT-09 by reallocating the amount from the CGST head to the SGST head.

All taxpayers registered under GST are eligible to shift any balances available in the electronic cash ledger using Form GST PMT-09.

The facility to use GST PMT-09 was made **LIVE** on the GST Portal on **April 21st 2020**. To avail this option taxpayer needs to log-in on GST portal, then go to the "Electronic Cash Ledger" tab, the option is available there. Thus, a taxpayer can now easily rectify wrongly paid taxes or other amounts.

### Key points to note about Form GST PMT-09:

- ▲ If the wrong tax has already been utilized for making any payment, then this challan is not useful. This challan only allows shifting of the amounts that are available in the electronic cash ledger.
- ▲ Major head refers to- Integrated tax (IGST), Central tax (CGST), State/UT tax (SGST), and Cess.
- ▲ Minor head refers to- Interest, Penalty, Fee and Others

[Notification No.37/2020 – Central Tax dated April 28, 2020]

## Relaxation to taxpayers in manner of submitting GSTR-3B

Considering the lockdown situation due to COVID-19, a registered person registered under the provisions of the Companies Act, 2013 i.e. Corporate Assessees shall, during the **period from 21st April, 2020 to 30th June, 2020**, also be allowed to furnish the return under section 39 in **FORM GSTR-3B** verified through electronic verification code (**EVC**). Earlier it was compulsory to use Digital Signature Certificate (DSC) for e-filing **GSTR-3B**

The facility to file NIL GSTR 3B via Short Messaging Service facility (SMS) will be made available to a registered person from a date to be notified later, using the registered mobile number.

[Notification No.38/2020 – Central Tax dated May 5, 2020]

## Extension of validity period of E-way Bill

Where an **E-way Bill** has been generated under rule 138 and its period of validity expires during the period **20th March 2020 to 15th April 2020**, the validity period of such e-way bill shall be **deemed to have been extended till 31st May 2020**.

[Notification No.40/2020 – Central Tax dated May 5, 2020]

## Due date for filing Form GSTR-9 (Annual Return) and Form GSTR-9C (Annual Audit) extended

The due date for e-filing Form GSTR-9 and GSTR-9C for FY 2018-19 has been further extended to **September 30th 2020**.

[Notification No.41/2020 – Central Tax dated May 5, 2020]

***Change in FDI Policy –  
Prior Government  
approval required for  
FDI from countries  
with which India  
shares land border***

The Department for Promotion of Industry and Internal Trade issued Press Note No. 3 (2020 Series) on 17 April 2020 mandating prior Government approval for foreign direct investments (FDIs) from countries with which India shares land border. This means any fresh investment or acquisition undertaken by entities belonging to, or beneficially owned, by entities/ citizens of such countries would require prior Government approval.

Currently, FDI is under automatic route for all sectors except certain sectors which are prohibited or restricted. Investment by entities and/ or citizens from Bangladesh and Pakistan are not eligible for automatic route and requires prior Government approval irrespective of the sector. Further, entities and/ or citizens of Pakistan can invest, only under the Government route, in sectors/ activities other than defence, space, atomic energy and sectors/ activities prohibited for foreign investment.

With the amendment issued under Press Note 3 of 2020, any investment from countries with which India shares land border will require a prior Government approval even in sectors where otherwise FDI was permitted under automatic route.

The Government approval route will also apply for any transfer of ownership of existing or future FDI which directly or indirectly results in beneficial ownership in the hands of any entity/ citizen of countries with which India shares land border.

This Press Note will become effective from the date on which the Government notification is issued under the Foreign Exchange Management Act, 1999.

*(Press Note No. 3 (2020 Series) of Department of Promotion of Industry and Internal Trade dated April 17, 2020)*



## ***Liaison office of UAE based company does not constitute a Permanent Establishment in India***

Based on the facts and in the circumstances of the case, recently the Supreme Court in the case of U.A.E. Exchange Centre dealt with an issue whether activities of Liaison Offices (LOs) of a UAE based company constitute a Permanent Establishment in India.

Whether an LO constitutes a PE in India or not, has always been a matter of litigation with the lower Courts and Tribunals. Just because a LO has been set up in India by obtaining RBI permission does not mean that the LO does not constitute a PE in India. To determine the taxability of LO in India, it is critical to examine the nature of activities carried out by LO in India.

The Supreme Court in this case observed that activities carried on by LOs in India were in the nature of 'preparatory or auxiliary character'. Since such activities are specifically exempt under Article 5(3)(e) of the India-UAE tax treaty, LO of the taxpayer does not constitute a PE in India.

*(UOI v. U.A.E. Exchange Centre (Civic Appeal No. 9775 of 2011) – Taxsutra.com)*

**General Circular  
regarding clarification  
on passing of Ordinary  
and Special resolutions  
by Companies under  
The Companies Act,  
2013 and rules made  
thereunder on account  
of the threat posed by  
COVID – 19**

The Ministry of Corporate Affairs vide its General Circular No. 14 dated 8th April, 2020 provided a clarification on passing of Ordinary and Special resolutions by Companies which are required to provide e-voting facility (Every company which has listed its equity shares on a recognised stock exchange and every company having not less than one thousand members) under the Companies Act, 2013 and rules made thereunder, Companies which has opted for such facility and the Companies which are not required to provide an e-voting facility during the threat posed by COVID-19.

[http://www.mca.gov.in/Ministry/pdf/Circular14\\_08042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular14_08042020.pdf)

**General circular  
regarding clarification  
on eligibility of CSR  
expenditures related to  
COVID – 19**

The Ministry of Corporate Affairs vide its General Circular No. 15 dated 10th April, 2020 provided a clarification on the eligibility of CSR expenditures relating to COVID – 19 activities through a set of Frequently Asked Questions (FAQs) alongwith clarifications.

[http://www.mca.gov.in/Ministry/pdf/Notification\\_10042020.pdf](http://www.mca.gov.in/Ministry/pdf/Notification_10042020.pdf)

**General Circular  
regarding Filings under  
Section 124 and Section  
125 of the Companies  
Act, 2013 r/w IEPFA  
(Accounting, Audit,  
Transfer and Refund)  
Rules, 2016 in view of  
emerging situation due  
to outbreak of  
COVID – 19**

The Ministry of Corporate Affairs vide its General Circular No. 16 dated 13th April, 2020 stated that, the necessary relaxation regarding filing of IEPF e-forms (IEPF – 1, IEPF – 1-A, IEPF – 2, IEPF – 3, IEPF – 4 and IEPF - 7) and e-verification of claims filed in e-form 5 under Section 124 [Unpaid Dividend Account] and Section 125 [Investor Education and Protection Fund] of the Companies Act, 2013 has been already provided without additional fees upto 30th September, 2020 through General Circular No.12 dated 24th March, 2020.

[http://www.mca.gov.in/Ministry/pdf/Circular16\\_13042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular16_13042020.pdf)

**General Circular  
regarding clarification  
on passing of Ordinary  
and Special resolutions  
by companies under  
the Companies Act,  
2013 and rules made  
thereunder on account  
of the threat posed by  
COVID – 19:**

The Ministry of Corporate Affairs vide its General Circular No.17 dated 13th April, 2020 with reference to the earlier General Circular No.14 dated 8th April, 2020 provided further clarification in detailed manner regarding passing of Ordinary and Special resolutions by Companies under the Companies Act, 2013 and rules made thereunder on account of the threat posed by COVID – 19.

Synopsis of this Circular are as follows:

- ▲ Manner and mode of issue of notices to the members before convening the general meeting;
- ▲ Requirements for voting by show of hands;
- ▲ Passing of certain items only through postal ballot without convening a general meeting;
- ▲ Sending of emails by members, where a poll on any item is required for Companies covered under para 3-B of the General Circular No.14 dated 8th April, 2020.

[http://www.mca.gov.in/Ministry/pdf/Circular17\\_13042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular17_13042020.pdf)

[http://www.mca.gov.in/Ministry/pdf/Circular14\\_08042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular14_08042020.pdf)

**General Circular** ►  
**regarding holding of**  
**Annual General**  
**Meetings by Companies**  
**whose Financial Year**  
**has ended on 31 st**  
**December, 2019**

The Ministry of Corporate Affairs vide its General Circular No. 18 dated 21st April, 2020 informed that, the Companies whose financial year has ended on 31 st December, 2019, can hold their AGM for such financial Year within a period of 9 Months from the closure of financial year i.e. by 30 th September, 2020.

[http://www.mca.gov.in/Ministry/pdf/Circular18\\_21042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular18_21042020.pdf)

**Period or days of** ►  
**Extension for names**  
**reserved and**  
**resubmission of forms**

The Ministry of Corporate Affairs provided a list regarding extended validity period for name reserved for Company Incorporation or name reserved for Change of Name and to resubmit the forms which were sent for resubmission earlier in case of Companies or LLPs.

[http://www.mca.gov.in/Ministry/pdf/Extension\\_22042020.pdf](http://www.mca.gov.in/Ministry/pdf/Extension_22042020.pdf)

**The Companies** ►  
**(Appointment and**  
**qualification of**  
**Directors) Second**  
**Amendment**  
**Rules, 2020**

▲ **Original Rule**

The Companies (Appointment and Qualifications of Directors) Rules, 2014.

▲ **Date of Notification**

29th April, 2020

▲ **Effective date of Amendment**

29th April, 2020

▲ **Amendment**

To amend The Companies (Appointment and Qualifications of Directors) Rules, 2014 to substitute rule 6(1)(a) as follows:

Every individual who has been appointed as an Independent Director in a Company, on the date of commencement of the Companies (Appointment and Disqualification of Directors) Fifth Amendment Rule, 2019, shall within a period of Seven Months (earlier it was 5 Months period) from such commencement apply online to the institute (Indian Institute of Corporate Affairs at Manesar notified under section 150 (1) of the Companies Act, 2013 [Manner of selection of Independent Directors and Maintenance of Databank of Independent Directors] as the Institute for the creation and maintenance of databank of Independent Directors) for inclusion of his name in the databank for a period of one year or Five Years or for his lifetime and from time to time take steps as specified in the sub-rule, till he continues to hold the office of an Independent Director in any company.

[http://www.mca.gov.in/Ministry/pdf/Rules\\_29042020.pdf](http://www.mca.gov.in/Ministry/pdf/Rules_29042020.pdf)

**General Circular** ►  
**regarding extension of**  
**the last date of filing of**  
**Form NFRA -2**  
**(Annual return to be**  
**filed by Auditor with**  
**the National Financial**  
**reporting Authority)**

The Ministry of Corporate Affairs vide its circular no.19 dated 30 th April, 2020 stated that, in continuation with earlier General Circular No.7 dated 5 th March, 2020 (General Circular regarding extension of the last date of filing of Form NFRA-2), decided the time- limit for filing Form NFRA-2 within 210 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA) (instead of 150 days as per earlier circular).

[http://www.mca.gov.in/Ministry/pdf/Circular19\\_30042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular19_30042020.pdf)

[http://www.mca.gov.in/Ministry/pdf/Circular\\_06032020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular_06032020.pdf)

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

Regulation	Due Date	Compliance	Description
<b>Employees' State Insurance Act, 1948 - (ESIC)</b>	15-Jun-20	ESIC Payment	ESIC Payment for the month of May, 2020.
<b>Goods and Service Tax (GST) #</b>	10-Jun-20	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of May 2020
	10-Jun-20	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of May 2020
	11-Jun-20	GSTR 1 (Monthly)	Return of outward supplies of taxable goods and/or services for the Month of May 2020 (for Assesses having turnover exceeding 1.5 Cr.)
	13-Jun-20	GSTR 6	Return for Input Service Distributors for the month of May 2020.
	20-june-2020 or 22-june-2020 or 24-june-2020	GSTR 3B	Simple GSTR return for the Month of May 2020 (based on category of taxpayer)
<b>Income Tax Act, 1961 @</b>	7-Jun-20	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of May, 2020.
	14-Jun-20	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under section 194 M, 194-IA & 194-IB in the month of April, 2020
	15-Jun-20	TDS/TCS	Quarterly TDS certificates (in respect of tax deducted for payments other than salary) for the quarter ending March 31, 2020
	15-Jun-20	Advance Tax	First instalment of advance tax for the assessment year 2021-22
	15-Jun-20	TDS/TCS	Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2019-20
	30-Jun-20	TDS/TCS	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194-M in the month of May, 2020
<b>Profession Tax</b>	30-Jun-20	PT Payment	Annual Payment of ProfessionTax for Maharashtra
<b>Employees' Provident Funds &amp; Miscellaneous Provisions Act, 1952</b>	15-Jun-20	PF Payment	PF Payment for the month of May, 2020.

# Due dates providd above are regular due dates. Due to lockdown situation on account of COVID-19 relaxation had been given by CBIC in terms of waiver of interest / late filing fees if the e-filing is made before June 30th 2020 or as per the date specified for a particular compliance as the case may be.

@ The CBDT vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 dated 31-03-2020 has extended all respective due dates, falling during the period from 20-03-2020 to 29-06-2020, till June 30, 2020.

The benefit of extended due date shall not be available in respect of payment of tax. However, any delay in payment of tax which is due for payment from 20-03-2020 to 29-06-2020 shall attract interest at the lower rate of 0.75% for every month or part thereof if same is paid after the due date but on or before 30-06-2020.

\* 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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