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## Business Support Services

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**Amendment in section 40(a)(ia) is curative**

In the case of Muradul Haque vs. ITO, ITAT Delhi has held that

The amendment to s. 40(a)(ia) by the Finance (No.2) Act, 2015 w.e.f. 01.04.2015, which restricts the disallowance for failure to deduct TDS to 30% of the expenditure instead of 100%, is curative in nature and should be applied retrospectively.

(<https://itatonline.org>)

**Late advance tax payments by corporate heavyweights give government a breather**

The first quarter advance tax collection from India Inc has been revised upward to Rs 39,880 crore from initial mop up of Rs 8,572 crore as payments by some heavyweight companies have come late due to Covid-19 limitations, said CBDT sources. In some cases, banks are still updating the final figures.

According to the latest numbers, the corporation advance tax payments showed a dip of 40 per cent as on June 17 over Rs 65,558 cr in the same period a year ago.

Personal income advance tax payments declined almost 48 per cent at Rs 6,775 crore from Rs 13,025 crore over the same period.

As such, the rate of fall in the advance tax collections shown till June 15 declined.

Interestingly, the initial collections reported on Tuesday showed a decline of 76 per cent from the collection from corporate.

With this, the gross direct tax collection came to Rs 1,73,970 crore, down 24.4 per cent as on June 17 this financial year against Rs 2,30,245 crore of the same period in the previous year.

Factoring in refunds of Rs 48,903 crore against the Rs 62,813 crore in this period, net direct collections fell by 25.3 per cent to Rs 1,25,065 crore from Rs 1,67,432 crore over the period under review.

(<https://www.business-standard.com>)

**Limited Scrutiny cannot be converted into Complete Scrutiny in mechanical manner**

In the case of Dev Milk Foods Pvt. Ltd vs. Additional Commissioner, the Delhi ITAT has held that :

Under CBDT Instruction No.5/2016, a case earmarked for 'Limited Scrutiny' cannot be taken for 'Complete Scrutiny' unless the AO forms a "reasonable view" that there is a possibility of under assessment of income. The objective of the instruction is to (i) prevent fishing and roving enquiries; (ii) ensure maximum objectivity; and (iii) enforce checks and balances upon the powers of the AO. On facts, there is not an iota of cogent material shown by the AO for the conversion from limited scrutiny to complete scrutiny. The PCIT has also accorded approval in a mechanical manner. S. 292BB does not save the infirmity. The assessment order has to be quashed as a nullity.

(<https://itatonline.org>)

***CBDT asks taxmen to process income tax returns filed up to AY 2017-18 with refund claims by October 31***

The income tax department on Friday asked officers to process returns filed up to the assessment year (AY) 2017-18 with refund claims by October 31, 2020.

In an order, the Central Board of Direct Taxes (CBDT) extended the time given to the tax officers to process such returns, which were not picked up for scrutiny, from earlier date of December 31, 2019.

“To mitigate genuine hardship being faced by the taxpayers on this issue, Board hereby relaxes the timeframe and directs that all validly filed returns up to the assessment year 2017-18 with refund claims which could not be processed and which have become time barred can be processed now with prior administrative approval of principal CCIT/CCIT concerned and intimation of such processing can be sent to the assessee by October 31, 2020,” the CBDT said.

In order to clear old-pending income tax refunds of taxpayers till the financial year 2016-17, the CBDT had issued an order last year allowing taxpayers to file claim for their pending refunds till and issuance of such refunds by tax authorities by December 31, 2019.

(<https://www.financialexpress.com>)

***Waiver of Loan is not taxable u/s 28(iv)***

In the case of Essar Shipping Limited vs. Commissioner of I. Tax, Bombay High Court has held that :

The Dept's argument that the waiver of a loan constitutes an operational subsidy which is taxable is not correct. There is a fundamental difference between “loan” and “subsidy” & the two concepts cannot be equated. While “loan” is a borrowing of money required to be repaid back with interest; “subsidy” is not required to be repaid back being a grant.

Such grant is given as part of a public policy by the state in furtherance of public interest. Therefore, even if a “loan” is written off or waived, which can be for various reasons, it cannot partake the character of a “subsidy”. The waiver of a loan cannot be brought to tax u/s 28(iv) of the Act.

(<https://itatonline.org>)

***One-time relaxation for Verification of tax-returns for the AY 2015-16 to AY 2019-20 which are pending due to non-filing of ITRV form and processing of such returns***

1. In respect of an Income-tax Return (ITR) which is filed electronically without a digital signature, the taxpayer is required to verify it using anyone of the following modes within the time limit of 120 days from date of uploading the ITR:-

- i. Through Aadhaar OTP
- ii. By logging into e-filing account through net banking
- iii. EVC through Bank Account Number
- iv. EVC through Demat Account Number
- v. EVC through Bank ATM
- vi. By sending a duly signed physical copy of ITR-V through post to the CPC, Bengaluru

2. In this regard, it has been brought to the notice of Central Board of Direct Taxes ('CBDT') that a large number of electronically filed ITRs still remain pending with the Income tax Department for want of receipt of a valid ITR-V Form at CPC, Bengaluru from the taxpayers concerned. In law, consequences of non-filing the ITR-V within the time allowed is significant as such a return is/can be declared Non-est in law, thereafter, all the consequences for non-filing a tax return, as specified in the Income-tax Act, 1961 (Act) follow.

3. In this context, as a one-time measure for resolving the grievances of the taxpayers associated with non-filing of ITR-V for earlier Assessment Years and to regularize such returns which have either become Non-est or have remained pending due to non-filing/non-receipt of respective ITR-V Form, the CBDT, in exercise of powers under section 119 of the Act, in case of returns for Assessment Years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which were uploaded electronically by the taxpayer within the time allowed under section 139 of the Act and which have remained incomplete due to non-submission of ITR-V Form for verification, hereby permits verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes as listed in para 1 above. Such verification process must be completed by 30.09.2020.

4. However, this relaxation shall not apply in those cases, where during the intervening period, Income tax Department has already taken recourse to any other measure as specified in the Act for ensuring filing of tax return by the taxpayer concerned after declaring the return as Non-est.

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5. Further, CBDT, also relaxes the time-frame for issuing the intimation as provided in second proviso to sub-section (1) of Section 143 of the Act and directs that such returns shall be processed by 31.12.2020 and intimation of processing of such returns shall be sent to the taxpayer concerned as per the laid down procedure. In refund cases, while determining the interest, provision of section 244A (2) of the Act would apply.

6. In case the taxpayer concerned does not get his return regularized by furnishing a valid verification (either ITR-V or EVC/OTP) by 30.09.2020, necessary consequences as provided in law for non-filing the return may follow.

(Source: [https://www.incometaxindia.gov.in/communications/circular/circular\\_13\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_13_2020.pdf))

## Clarification on applicability of GST on Director's Remuneration

The Central Board of Indirect Taxes and Customs (CBIC) has issued following clarifications:

1. GST on remuneration paid by companies to the independent directors or non-executive directors:

In respect of such directors, the services provided by them to the company shall be liable to GST. The remuneration paid to them shall be treated as consideration of their services. Accordingly, in such cases, the company is liable to discharge the applicable GST on a reverse charge basis (RCM).

2. GST on remuneration paid by companies to executive directors

a. Treated as salary in books of the company:

The part of director's remuneration, which has been declared as salary in the books of a company and on which tax has been deducted at source, shall not be liable to GST. This is because the same represents consideration of services by an employee to the employer in course of or in relation to his employment.

b. Treated as professional or technical fees in books of the company:

The part of director's remuneration, which is declared separately, other than salaries, in the company's accounts and subjected to tax at source as fees for professional or technical services shall be treated as consideration for providing services and is therefore liable to GST. Further, in such cases, the company shall be liable to discharge the applicable GST on RCM.

(Circular No.140/10/2020 – Central Tax dated June 10, 2020)

## Extension of time for Revocation of Cancellation of GST Registration

Application for revocation of cancellation of the GST registration can be made within a period of 30 days. In this regard, it has been clarified that for the purpose of calculating the period of 30 days for registered persons (who were served notice and where cancellation order was passed on or before 12 June 2020), later of the following dates shall be considered:

- Date of service of the said cancellation order; or
- 31 August 2020.

(Order No.01/2020 – Central Tax dated June 25, 2020)

## GST Compliance relaxations – Waiver or reduction of Late fees for GST Returns

For GSTR-3B

Maximum late fee for Form GSTR-3B capped at Rs.500 provided return is filed before 30 September 2020 and Subject to fulfillment of prescribed conditions. This relief is for all class of normal taxpayers. Notification No 52/2020-Central Tax dated 24th June, 2020 has accorded relief for GSTR 3B returns for the return period July 2017 to Jan 2020. For returns pertaining to February 2020 to April 2020 relief was accorded during lockdown. Further Notification No 57/2020-Central Tax dated June 30th June 2020 has provided conditional waiver of late fees for the period from May 2020 to July 2020.

Summary of the notifications is presented in lucid manner for easy understanding-

Sr. No.	Return Period	Type	Maximum Late Fees	Return Filing Deadline To Avail Benefit
1.	July 2017 to Jan 2020 May 2020 to July 20	Other than NIL Return	Maximum late fees of Rs. 250 each under CGST and SGST/UTGST per return period	To avail this benefit one has to file returns before 30th September 2020
2.	July 2017 to Jan 2020 May 2020 to July 20	NIL Return	No late fees	

For GSTR-1

Waiver of late fees for delay in filing Form GSTR-1, subject to following due dates

Month / Quarter	Late fee to be waived if GSTR-1 is furnished by
March 2020	July 10 <sup>th</sup> 2020
April 2020	July 24 <sup>th</sup> 2020
May 2020	July 28 <sup>th</sup> 2020
June 2020	August 5 <sup>th</sup> 2020
January to March 2020	July 17 <sup>th</sup> 2020
April to June 2020	August 3 <sup>rd</sup> 2020

(Notification No.52/2020 – Central Tax dated June 24, 2020, Notification No.53/2020 – Central Tax dated June 24, 2020 and Notification No.57/2020 – Central Tax dated June 30, 2020)

**Extension of period to pass GST Refund Order**

Section 54(7) of CGST Act provides that final order in GST refund shall be issued within 60 days from the date of receipt of application complete in all respects however considering Pandemic Covid-19 CBIC notified that if GST refund order date falls between 20th March to 30th August, 2020 in that case refund order can be issued within 75 days (i.e. 60 + 15 Days) of receipt of reply of notice or 31st day of August, 2020, whichever is later.

(Notification No.56/2020 – Central Tax dated June 27, 2020)

## ***India publishes synthesized text of Tax Treaty with Canada***

India has recently published the synthesized text of the tax treaty with Canada as impacted by the Multilateral Convention to implement reforms to prevent Base Erosion and Profit Shifting (MLI). The synthesized text was drafted based on the reservations and notifications filed earlier with the Depository (the Secretary-General of the Organization for Economic Co-operation and Development) by both the countries. The authentic legal texts of the Agreement and the MLI take precedence and remain the legal texts applicable.

The MLI applies for the India-Canada tax treaty as under:

**In India:**

- o for taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 April 2020; and
- o for all other taxes levied with respect to taxable periods beginning on or after 1 April 2021;

**In Canada:**

- o for taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020; and
- o for all other taxes levied with respect to taxable periods beginning on or after 1 June 2020.

(<https://www.incometaxindia.gov.in/dtaa/synthesised-text-of-the-mli-and-india-canada-dtaa.pdf>)



**General Circular** ►  
**regarding clarification**  
**on passing of ordinary**  
**and special resolutions**  
**by Companies under**  
**the Companies Act,**  
**2013: -**

The Ministry of Corporate Affairs vide its General Circular No.22 dated 15th June, 2020 with reference to the earlier General Circular No.14 dated 8th April, 2020 and General Circular No.17 dated 13th April, 2020 allows companies to conduct their EGMs through Video Conferencing (VC) or Other Audio Visual Means (OAVM) or transact items through postal ballot in accordance with the framework provided in the aforesaid circulars upto 30th September, 2020 (earlier it was upto 30th June, 2020 or till further orders, whichever is earlier).

Link:

[http://www.mca.gov.in/Ministry/pdf/Circular22\\_15062020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular22_15062020.pdf)

[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 scheme for**  
**relaxation of time for**  
**filing forms related to**  
**creation or**  
**modification of charges**  
**under the Companies**  
**Act, 2013: -**

The Ministry of Corporate Affairs vide its General Circular No.23 dated 17th June, 2020 introduced a scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013 for the purpose of condoning the delay in filing certain forms related to creation or modification of Charge.

Points covered under the abovementioned scheme:

- Applicability;
- Relaxation of Time;
- Applicable Fees; and
- Non - applicability

Links:

[http://www.mca.gov.in/Ministry/pdf/Circular23\\_17062020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular23_17062020.pdf)

**General Circular** ►  
**regarding clarification**  
**with regard to creation**  
**of deposit repayment**  
**reserve and to invest or**  
**deposit amount of**  
**Debentures: -**

The Ministry of Corporate Affairs vide its General Circular No.24 dated 19th June, 2020 in continuation to earlier General Circular 11 dated 24th March, 2020 (General Circular regarding Special Measures under Companies Act, 2013 (CA-2013) and Limited Liability Partnership Act, 2008 in view of COVID-19 outbreak) provided further extension of time till 30th September, 2020 (earlier it was till 30th June, 2020) for the paras V and VI of the aforesaid circular (regarding clarification with regard to creation of deposit repayment reserve of 20% u/s. 73 (2)(c)[ Prohibition on Acceptance of Deposits from Public] of the Companies Act, 2013 and to invest or deposit 15% of amount of Debentures u/r 18 [Debentures] of the Companies (Share Capital and Debentures) Rules, 2014).

Links:

[http://www.mca.gov.in/Ministry/pdf/Circular24\\_20062020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular24_20062020.pdf)

**Amendment relating to  
rules of inclusion of  
Independent Director's  
name in Databank: -**

- Effective date of Amendment: 23rd June, 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 Ten Months (earlier it was 7 Months period) from such commencement apply online to the Indian Institute of Corporate Affairs at Manesar 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.

Link:

[http://www.mca.gov.in/Ministry/pdf/Rule2\\_25062020.pdf](http://www.mca.gov.in/Ministry/pdf/Rule2_25062020.pdf)

**Matters that can be covered through Video Conferencing (VC) or Other Audio Visual Means (OAVM)**

**Effective date of Amendment:** 23rd June, 2020

As per the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2020, now Companies can transact the following matters through video conferencing or other audio visual means upto 30th September, 2020:

- i. The approval of Annual Financial Statements;
- ii. The Approval of the Board of Directors Report;
- iii. The approval of the prospectus;
- iv. The audit Committee Meetings for consideration of Financial Statements including Consolidated Financial Statement, if any to be approved by the Board under section 134 of the Companies Act, 2013; and
- v. The approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.

Link:

[http://www.mca.gov.in/Ministry/pdf/Rule1\\_25062020.pdf](http://www.mca.gov.in/Ministry/pdf/Rule1_25062020.pdf)

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

Regulation	Due Date	Compliance	Description
<b>Employees' State Insurance Act, 1948 - (ESIC)</b>	14-Aug-20	ESIC Payment	ESIC Payment for the month of Jul, 2020.
<b>Goods and Service Tax (GST)</b>	10-Aug-20	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of July 2020
	10-Aug-20	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of July 2020
	11-Aug-20	GSTR 1 (Monthly)	Return of outward supplies of taxable goods and/or services for the Month of July 2020 (for Assesses having turnover exceeding 1.5 Cr.)
	13-Aug-20	GSTR 6	Return for Input Service Distributors for the month of July 2020.
	20-Aug-2020 or 22-Aug-2020 or 24-Aug-2020	GSTR 3B	Simple GSTR return for the Month of July 2020 (based on category of taxpayer)
<b>Income Tax Act, 1961</b>	31-Jul-20	TDS/TCS	Extended due date to file Quarterly statement of TDS deposited for the quarter ending March 31, 2020 without late fees
	31-Jul-20	TDS/TCS	The date for making various investment/ payment for claiming deduction under Chapter-VIA-B of the IT Act which includes section 80C (LIC, PPF, NSC etc.), 80D (Mediclaime), 80G (Donations) etc. has also been further extended to 31st JULY, 2020 for claiming the deduction under these sections for FY 2019-20.
	07-Aug-20	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of July, 2020.
	14-Aug-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 July, 2020
	15-Aug-20	TDS/TCS	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2020
	15-Aug20	TDS/TCS	Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2019-20  The due date for issuing certificate has been extended from June 15, 2020 to August 15, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No.35 /2020, dated 24-06-2020.
	30-Aug-20	TDS/TCS	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA for the month of July, 2020
	30-Aug-20	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under Section 194-IB / 194-M for the month of July, 2020
<b>Employees' Provident Funds &amp; Miscellaneous Provisions Act, 1952</b>	14-Aug-20	PF Payment	PF Payment for the month of July, 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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