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ITAT Mumbai To Resume Physical Hearings, On Experimental Basis, With Effect From 7th December 2020

Shri Pramod Kumar, the Hon'ble Vice President of the Income Tax Appellate Tribunal, Mumbai Benches, has issued a notice dated 3rd December 2020 stating that the Mumbai Benches intend to resume physical functioning, on an experimental basis and in a limited manner, with effect from 7th December, 2020. A detailed SOP has also been issued.

Source: (<https://itatonline.org/>)

CBDT to validate Unique Document Identification Number (UDIN) generated from ICAI portal at the time of upload of Tax Audit Reports

The Institute of Chartered Accountants of India, in its gazette notification dated 2nd August, 2019, had made generation of UDIN from ICAI website www.icaai.org mandatory for every kind of certificate/tax audit report and other attestations made by their members as required by various regulators. This was introduced to curb fake certifications by non-CAs misrepresenting themselves as Chartered Accountants.

In line with the ongoing initiatives of the Income Tax Department for integrating with other Government agencies and bodies, Income-tax e-filing portal has completed its integration with the Institute of Chartered Accountants of India (ICAI) portal for validation of Unique Document Identification Number (UDIN) generated from ICAI portal by the Chartered Accountants for documents certified/attested by them.

It may be noted that, in consonance with the above requirement, Income-tax e-filing portal had already factored mandatory quoting of UDIN with effect from 27th April, 2020 for documents certified/attested in compliance with the Income-tax Act, 1961 by a Chartered Accountant. With this system level integration, UDIN provided for the audit reports/certificates submitted by the Chartered Accountants in the e-filing portal shall be validated online with the ICAI. This will help in weeding out fake or incorrect Tax Audit Reports not duly authenticated with the ICAI.

If for any reason, a Chartered Accountant was not able to generate UDIN before submission of audit report/certificate, the Income-tax e-filing portal permits such submission, subject to the Chartered Accountant updating the UDIN generated for the form within 15 calendar days from the date of form submission in the Income-tax e-filing portal. If the UDIN for the audit report/certificate is not updated within the 15 days provided for the same, such audit report/certificate uploaded shall be treated as invalid submission.

Source: https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF_News/validate_UDIN_generated_from_ICAI_portal_26_11_20.pdf

**CBDT issues further
Clarifications on
provisions of the
DTVSV Act 2020**

With the objective to reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process, the Direct Tax Vivad se Vishwas Act, 2020 (hereinafter referred to as 'Vivad se Vishwas') was enacted on 17th March, 2020. The provisions of Vivad se Vishwas were amended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 to provide certain relaxations in view of the COVID-19 pandemic and also to empower the Central Government to notify certain dates. Towards this end, vide notification dated 27th October, 2020 the date for payment without additional amount under Vivad se Vishwas was extended from 31st December, 2020 to 31st March, 2021. The last date for filing declaration under Vivad se Vishwas was also notified as 31st December, 2020. Subsequently, the Central Board of Direct Taxes issued a circular no. 18/2020 dated 28th October, 2020 relaxing the time limit of 15 days prescribed in section 5(1) of Vivad se Vishwas for making payment of amount payable, as determined in a certificate issued by the Designated Authority.

In order to facilitate the taxpayers, the Board had vide circular no. 9/2020 dated 22nd April, 2020 issued clarifications in form of answers to 55 frequently asked questions (FAQs) on issues related to eligibility, computation of amount payable, procedure and consequences under Vivad se Vishwas. Several representations have been received thereafter seeking further relaxation and clarifications with respect to such issues. Some of these representations have already been addressed through the aforesaid notification dated 27th October, 2020 and circular dated 28th October, 2020.

Section 10 and 11 of the Vivad se Vishwas empowers the Board / Central Government to issue directions or orders in public interest or to remove difficulties. This circular is being issued in continuation of circular dated 22nd April, 2020 (which covered Q. no. 1- 55) under section 10 and 11 of the Vivad se Vishwas to provide answers to 34 more FAQs (Q. no. 56- 89). It may be noted that in the FAQs, Income Tax Act, 1961 has been referred to as the Act, Designated Authority (under Vivad se Vishwas) has been referred to as the DA, Assessing Officer has been referred to as the AO, Commissioner (Appeals) has been referred to as CIT(A), and the Income Tax Department has been referred to as the Department.

Clarifications in form of questions on Scope/Eligibility (Q. No. 56 to 75) are available on the below link.

Source: https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF_News/FAQ%20ON%20VsV%20Scheme-Circular-No.-21-second-FAQ-on-VsV.pdf

E-invoicing applicable to taxpayers having aggregate turnover exceeding Rs.100 Cr

E-invoicing will be made applicable to the taxpayers having aggregate turnover exceeding Rs.100 Cr effective from 01st January 2021. E-invoicing was earlier made applicable to taxpayers having aggregate turnover exceeding Rs.500 Cr effective from 01st October 2020

[Notification No.88/2020 – Central Tax dated November 10, 2020]

Quarterly Return Monthly Payment Scheme (QRMP) Notified and relevant Clarifications issued

As a trade facilitation measure and in order to further ease the process of doing business, the GST Council in its 42nd meeting held on 05th October 2020, had recommended that registered person having aggregate turnover up to Rs.5 Cr may be allowed to furnish return on quarterly basis along with monthly payment of tax, with effect from 01st January 2021. Government has issued following notifications to implement the Scheme of Quarterly Return filing along with monthly payment of taxes (QRMP Scheme)

Sr. No.	Notification No.	Remarks
1.	Notification No. 81/2020- Central Tax, dated 10th November 2020	Notifies amendment carried out in sub-section (1), (2) and (7) of section 39 of the CGST Act vide Finance (No.2) Act, 2019 related to effective date
2.	Notification No. 82/2020- Central Tax, dated 10th November 2020	Makes the Thirteenth amendment (2020) to the CGST Rules 2017 related to filing process
3.	Notification No. 84/2020- Central Tax, dated 10th November 2020	Notifies class of persons under proviso to section 39(1) of the CGST Act (deemed applicability)
4.	Notification No. 85/2020- Central Tax, dated 10th November 2020	Notifies special procedure for making payment of tax liability in the first two months of a quarter.

CBIC has clarified various issues related to the provisions notified by above notifications of QRMP scheme, brief summary is as under:

1. Effective Date: The scheme will be implemented with effect from 01 Jan 2021.

2. Eligibility for the Scheme: A registered person who is required to furnish a return in Form GSTR-3B, and who has an aggregate turnover of up to Rs.5 Cr in the preceding financial year, is eligible for the QRMP Scheme.

The aggregate annual turnover for the preceding financial year shall be calculated in the common portal taking into account the details furnished in the returns by the taxpayer for the tax periods in the preceding financial year. In case the aggregate turnover exceeds Rs.5 Cr during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.

3. Exercising option for QRMP Scheme: A registered person can opt-in / opt-out for any quarter from the first day of the second month of the preceding quarter to the last day of the first month of the quarter. Eg. A registered person intending to avail /opt-out of the Scheme for the quarter 'Oct to Dec' can exercise his option during the 1st of Aug to 31st of Oct.

Registered persons are not required to exercise the option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.

4. Default Migration for the first quarter of the Scheme: The scheme will be applicable w.e.f 01. Jan 2021. To facilitate the taxpayers, it has been decided that for the first quarter i.e. January 2021 to March 2021, the registered persons having turnover up to Rs 5 Cr and have furnished the return in Form GSTR-3B for October 2020 by 30th November 2020, shall be migrated on the common portal as indicated below :

Sr. No.	Class of registered person having aggregate turnover	Default Option (Migrated)
(a)	Up to 1.5 crore rupees & furnished FORM GSTR-1 on <u>monthly basis</u> in the <u>current financial year</u>	Monthly Return
(b)	Up to 1.5 crore rupees & furnished FORM GSTR-1 on a quarterly basis in the <u>current financial year</u>	Quarterly Return
(c)	More than 1.5 crore rupees and up to 5 crore rupees <u>in the preceding financial year</u>	Quarterly Return

The default option has been provided for the convenience of registered persons. Such registered persons are free to change the option as above if they so desire. For the first quarter of the scheme, the changes can be done from the 5th December, 2020 to 31st January, 2021

5. Quarterly Filing of GSTR 1 :The registered persons opting for the Scheme would be required to furnish the details of outward supply in Form GSTR-1 quarterly as per the rule 59 of the CGST Rule.

6. Monthly payment of Tax: The registered person under the QRMP Scheme would be required to pay the tax due on monthly basis in each of the first two months of the quarter.

- The Form 'PMT 06' is required to be used for the purpose of payment
- The due date of tax payment is the 25th of the succeeding month
- While generating the challan, taxpayers should select “Monthly payment for the quarterly taxpayer” as a reason for generating the challan

7. Method to calculate Monthly payment of Tax: The taxpayer is free to avail either of the following two options provided below for monthly payment of tax during the first two months

- **Fixed Sum Method:** A taxpayer who has furnished a quarterly return in a preceding quarter can opt to pay 35% of the tax paid in cash in the preceding quarter
- **Self-Assessment Method:** The registered person can pay the tax due by considering the tax liability on inward and outward supplies and the Input Tax Credit available

In case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the tax due (for the first month or cumulative dues in the second month) or where there is a nil tax liability, the registered person may not deposit any amount for the said months

8. Quarterly filing of Form GSTR-3B: The registered persons would be required to furnish Form GSTR-3B, for each quarter, on or before the 22nd or 24th day of the month succeeding such quarter.

9. Applicability of Interest:

- No interest would be payable in case the tax due is paid in the first two months of the quarter by way of depositing an auto-calculated fixed sum amount by the due date
- In case such payment of tax by depositing the system calculated amount in FORM GST PMT-06 is not done by the due date, interest would be payable at the applicable rate, from the due date of furnishing FORM GST PMT-06 till the date of making such payment

- While furnishing quarterly return in FORM GSTR-3B, if it is found that in any or both of the first two months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in the challan, then, no interest would be payable provided the person deposit system calculated amount for each of the first two months and discharge entire liability for the quarter in the FORM GSTR-3B of the quarter by the due date.
- Further, in case of FORM GSTR-3B for the quarter is furnished beyond the due date, interest would be payable as per the provisions of Section 50 of the CGST Act for the tax liability net of ITC

10. **Applicability of Late Fee:**

- Late fee is applicable for delay in furnishing of return/details of outward supply as per the provision of Section 47 of the CGST Act. As per the Scheme, the requirement to furnish the return under the proviso to sub-section (1) of Section 39 of the CGST Act is quarterly. Accordingly, a late fee would be applicable for delay in furnishing of the said quarterly return/details of outward supply.
- It is clarified that no late fee is applicable for delay in payment of tax in the first two months of the quarter

[Circular No. 143/13/2020 – GST Tax dated November 10, 2020]

**Compounding of
Contraventions under
FEMA, 1999 –
Amendment in
Regulations**

The Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 and Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 i.e. Notification No. FEMA.395/2019-RB, both notified on October 17, 2019, by Government of India and Reserve Bank of India respectively have since superseded the earlier Notification No. FEMA 20(R)/2017-RB. Accordingly, the compounding powers stand delegated to the Regional Offices/ Sub Offices of the Reserve Bank to compound the following contraventions.

FEM (Non –Debt Instruments) Rules, 2019 dated October 17, 2019	FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations dated October 17, 2019
Rule 2(k) read with Rule 5	Regulation 3.1(I)(A)
Rule 21, Rule 9(4) and Rule 13(3)	Regulation 4(1), (2), (3), (6), (7) and (11)
Paragraph 3 (b) of Schedule I (Issue of shares without approval of RBI or Government, wherever required) Rule 4 (Receiving investment in India from non- resident or taking on record transfer of shares by Investee Company)	

The contraventions under FEMA by the Reserve Bank were classified as 'technical' or 'material' or 'sensitive/serious in nature'. On a review it has been decided to discontinue the classification of a contravention as 'technical' that was dealt with by way of an administrative/ cautionary advice and regularize such contraventions by imposing minimal compounding amount as per the compounding matrix as contained in the Master Direction.

With respect to public disclosure of Compounding Orders, it has been decided that in respect of the Compounding Orders passed on or after March 01, 2020, summary information, instead of the Compounding Orders, shall be published on the Bank's website

(RBI/2020-21/67 A.P.(DIR Series) Circular No. 06 dated November 17, 2020)

**Establishment of
Branch Office (BO) /
Liaison Office (LO) /
Project Office (PO)
or any other place of
business in India by
foreign law firms**

The Hon'ble Supreme Court has while disposing of the case, held that advocates enrolled under the Advocates Act, 1961 alone are entitled to practice law in India and that foreign law firms/companies or foreign lawyers cannot practice profession of law in India. As such, foreign law firms/companies or foreign lawyers or any other person resident outside India, are not permitted to establish any branch office, project office, liaison office or other place of business in India for the purpose of practicing legal profession. Accordingly, AD Category – I banks are directed not to grant any approval to any branch office, project office, liaison office or other place of business in India under FEMA for the purpose of practicing legal profession in India.

(RBI/2020-21/69 A.P.(DIR Series) Circular No. 07 dated November 23, 2020)

Indian resident is eligible for foreign tax credit on taxes paid in the UK on salary income

The tax payer, Kapil Dev Ranwan, was a resident of India and had derived income from salary which suffered tax in the UK on account of his employment exercised in UK. The tax payer was in UK for a period exceeding 183 days. The tax payer had all the necessary details and documentation in support of the foreign tax credit claim under Article 24 of the India-UK DTAA. The tax payer appealed that the Assessing Officer erroneously applied the provisions of Article 16 in the India UK DTAA.

Based on the facts and in the circumstances of the case, the Delhi Bench of Income-tax Appellate Tribunal held that the tax payer was working in UK for more than 183 days which was never disputed by the Revenue at any point of time. The tax payer was a resident of India, therefore, Article 16(2) does not apply in his case. Accordingly, the taxpayer is eligible for Foreign Tax Credit as per Article 24 of the India-UK tax treaty on taxes paid in UK on remuneration income.

(Kapil Dev Ranwan v. DCIT (ITA No. 875/Del/2017 (AY 2012-13))

**Notification dated 27th
November, 2020
[exercise of power
conferred under
Section 435(1) of the
Companies Act,
2013(Establishment of
Special Courts)]:**

- **Notification:** Notification No.S.O.4283(E).
- **Date of Notification:** 27th November, 2020.
- **Purpose of Notification:** To designate the following courts mentioned in the table below as Special Courts in the States of Maharashtra, West Bengal and Tamil Nadu for the purpose of trial of Offences under the Companies Act, 2013, in respect of cases filed by the Securities and Exchange Board of India:

Sr. No.	Court
(1)	(2)
1.	Court number 22, City Civil and Sessions Court, Mumbai
2.	Court number 39, City Civil and Sessions Court, Greater Mumbai
3.	5th Special Court, Calcutta
4.	Principal Judge, City Civil Court, Chennai

Link: http://www.mca.gov.in/Ministry/pdf/NotificationCompAct_01122020.pdf

Due dates for the Month of January, 2021#

Regulation	Due Date	Compliance	Description
Employees' State Insurance Act, 1948- (ESIC)	15-Jan-21	ESIC Payment	ESIC Payment for the month of December, 2020.
Goods and Service Tax (GST)	10-Jan-21	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of December 2020
	10-Jan-21	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of December 2020
	11-Jan-21	GSTR 1 (Monthly)	Return of outward supplies of taxable goods and/or services for the Month of December 2020 (for Assesses having turnover exceeding 1.5 Cr.)
	13-Jan-21	GSTR 6	Return for Input Service Distributors for the month of December 2020.
	13-Jan-21	GSTR 1 (Quarterly)	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 October to December 2020
	20-Jan-2021 or 22-Jan-2021 or 24-Jan-2021	GSTR 3B	Simple GSTR return for the Month of December 2020 (based on category of taxpayer)
Income Tax Act, 1961	7-Jan-21	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of December, 2020.
	15-Jan-21	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under section 194-IA / 194-IB in the month of Dec, 2020
	15-Jan-21	TCS	Quarterly statement of TCS deposited for the quarter ending December 31, 2020
	30-Jan-21	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, 2020
	30-Jan-21	TDS/TCS	Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending December 30, 2020
	31-Jan-21	TDS/TCS	Quarterly statement of TDS deposited for the quarter ending December 31, 2020
	31-Jan-21	ITR	Return of income for the assessment year 2020-21 for below mentioned assessee: (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or (d) an assessee who is required to furnish a report under section 92E.
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Jan-21	PF Payment	PF Payment for the month of Dec, 2020.

The above due date calendar contains compliances generally applicable to taxpayers and this calendar 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.

HSCo

www.hscollp.in

Head Office (Mumbai)

409 - 410, Dalamal Chambers,
New Marine Lines,
Mumbai - 400 020, India.

E: hs@hscollp.in

Delhi Office

B-12, Somdutt Chambers II,
Bhikaji Cama Place,
New Delhi – 110066.

E: delhi@hscollp.in

Bangalore Office

Brigade IRV, 9th floor
Nallurahalli, Whitefield,
Bangalore – 560 066.

E: bangalore@hscollp.in

Pune Office

1A, 2nd Floor, City Vista,
Fountain Road, Off.
Victorious Kids School,
Kharadi, Pune - 411 014.

E: pune@hscollp.in

Hyderabad Office

Unit 301, Inani House,
Kavuri Hills Madhapur,
Phase II, Near D-Mart,
Hyderabad – 500 033.

E: hyderabad@hscollp.in

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