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Advance tax collection zooms nearly 33% to Rs 1.41 trillion in Dec quarter

Indicating a sharp revival in direct tax mop-up, advance tax paid by companies in the December quarter rose by 50 per cent compared with the corresponding period last year, owing to a low base effect.

It also indicates that the optimism among corporate houses about their earnings as the economy gradually recovers from the pandemic-induced shock.

The robust revenue collection reinforces hope of a good economic performance in the third quarter of financial year 2020-21 (Q3FY21) after the surprising pickup seen in Q2.

At Rs 1.41 trillion, overall advance tax collection, including corporation and personal income tax, rose by 33 per cent in Q3.

In the April-December period, advance tax mop up stood at Rs 2.99 trillion, a six per cent decline year-on-year (YoY), compared with a 25 per cent contraction seen after the second installment in September.

This also helped narrow the contraction in net direct taxes to 13 per cent as on December 16, compared to a 25 per cent decline seen as on December 1.

Direct tax collection, net of refunds, stood at Rs 5.89 trillion, compared with Rs 6.75 trillion a year ago.

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

CBDT launches e-portal for filing complaints regarding tax evasion/Benami Properties/Foreign Undisclosed Assets

Taking another step towards e-governance and encouraging participation of citizen as stakeholders in curbing tax evasion, the Central Board of Direct Taxes has launched an automated dedicated e-portal on the e-filing website of the Department to receive and process complaints of tax evasion, foreign undisclosed assets as well as complaints regarding benami properties.

The public can now file a Tax Evasion Petition through a link on the e-filing website of the Department <https://www.incometaxindiaefiling.gov.in/> under the head "File complaint of tax evasion/undisclosed foreign asset/benami property". The facility allows for filing of complaints by persons who are existing PAN/Aadhaar holders as well as for persons having no PAN/Aadhaar. After an OTP based validation process (mobile and/or email), the complainant can file complaints in respect of violations of the Income tax Act, 1961, Black Money (Undisclosed Foreign Assets and Income) Imposition of Tax Act, 1961 and Prevention of Benami Transactions Act (as amended) in three separate forms designed for the purpose.

Upon successful filing of the complaint, the Department will allot a unique number to each complaint and the complainant would be able to view the status of the complaint on the Department's website. This e-portal is yet another initiative of the Income Tax Department to bring about enhanced ease of interaction with the Department, while strengthening its resolve towards e-governance.

<https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF/Press-Release-CBDT-launches-e-portal-for-filing-complaints-regarding-dated-12-01-2021.pdf>

Extension of Due Dates for Vivad se Vishwas Scheme

Apart from extending the due dates for filing of Income tax returns and Tax Audit Reports, the last date for making a declaration under Vivad Se Vishwas Scheme has been extended to 31st January, 2021 from 31st December, 2020. The date for passing of orders under Vivad Se Vishwas Scheme, which are required to be passed by 30th January, 2021 has been extended to 31st January, 2021.

https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF/Press-release-Extension-of-time-limits_30-12-2020.pdf

Due date for filing Form GSTR-9 (Annual Return) and Form GSTR-9C (Annual Audit) for FY 2019-20 extended

The due date for e-filing of Form GSTR-9 and GSTR-9C for FY 2019-20 has been further extended to February 28, 2021.

[Notification No.95/2020 – Central Tax dated December 30, 2020]

Important Amendments in the CGST Rules

> Time limit for system-based GST Registration increased

The time for system-based registration has been enhanced from 3 days to 7 days. That means, now department shall be required to review and grant registration within 7 days against 3 days as provided earlier from the date of filing of registration application. Where the applicant does not do adhaar authentication or where department feels fit to carry out physical verification the time limit for grant of registration shall be 30 days instead of 7 days.

> More Powers to GST department in cancellation of GSTIN

1. The officer can proceed for cancellation of GSTIN where a taxpayer avails Input Tax Credit (ITC) exceeding than that permissible in Section 16. Clause (e) has been inserted in Rule 21 of CGST Rules 2017.

2. Where the liability declared in GSTR 3B is less than that declared in GSTR 1 in a particular month, department may now proceed with cancellation of GSTIN. There might be some practical difficulties in implementing such a provision as there are number of corrections which are made in GSTR 3B which may result in lower tax liability as compared with GSTR 1. The clause (f) newly inserted talks about details of outward supply to which we understand that Taxable value and tax both should be in synchronization between GSTR 1 and GSTR 3B.

3. No opportunity of being heard shall be given to a taxpayer for suspension of GSTIN, where the proper officer (PO) has reasons to believe that the registration of person is liable to be cancelled. The words “opportunity of being heard has been omitted from clause (2) of Rule 21A.

4. Where there are significant deviation/anomalies between details of outward supply between GSTR 3B and GSTR1 or inward supplies (ITC) between GSTR 3B and GSTR 2B which indicate contravention of Act, department shall now serve a notice in FORM GST REG 31 to call explanation as to why GSTIN should not be cancelled. Taxpayer shall be required to submit his reply within 30 days of such notice being served to him.

5. Where a GSTIN is suspended no refund u/s 54 of CGST Act 2017 can be availed by the taxpayer. This means that first GSTIN Suspension proceedings have to be closed before applying refund.

> Restriction on claim of ITC as per Rule 36(4)

The claim of ITC in respect of invoices not furnished by the corresponding vendors has now been restricted to 5% of the credit available in GSTR 2B. This limit earlier was 10% of ITC available. This would be mean that a taxpayer's ITC claim shall now be restricted to 105% of the Credit reflected in his GSTR 2B. Any claim exceeding the specified limit shall result in violation of CGST Act read with rules which may result into suspension of GSTIN as described above. The provision shall come into effect from 1st January 2021.

> GSTR 1 to be blocked in case of non-filing of GSTR 3B

1. Where a taxpayer fails to file GSTR 3B for two subsequent months, his GSTR 1 shall now be blocked. Earlier non filing of GSTR 3B used to result in blocking of E-way Bill facility but from now on it shall also result in blocking of GSTR 1 of the taxpayer. Similarly, for quarterly return filers, the taxpayer failing to file GSTR 3B for the preceding quarter shall not be permitted to file GSTR 1 of subsequent quarter.

2. A taxpayer whose is restricted to avail ITC as per rule 86B shall also not be permitted to file GSTR 1 where he has not filed GSTR 3B for the preceding tax period.

> Restriction on Utilization of Input Tax Credit – Rule 86B

Subject to certain exceptions and exclusions for the category of taxpayers specified in Rule 86B (inserted with effect from January 2021) at least 1% of the tax liability will have to be discharged in cash where the value of taxable supply (other than exempt and zero rated supplies) exceeds Rs. 50 lakhs in a month.

The restriction shall not apply in following cases:

- Taxpayer has paid income tax exceeding Rs. 1 lakh in two preceding years; or
- Taxpayer has received refund under section 54 exceeding Rs. 1 lakh in preceding financial year on account of unutilised ITC; or
- Taxpayer as on the present month, has paid outward tax liability in cash which cumulatively exceeds 1% of the total tax liability for the financial year; or
- The restriction shall not apply to following categories of taxable person:
 - o Government Department;
 - o Public Sector Undertaking;
 - o Local Authority;
 - o Statutory Body.

> Narrowing the validity of E-way bill

Earlier one day was permitted for distance up to 100 kms under e way bill provision. Now the same has been increased to 200 kms. This means that only one day validity shall be granted to cover a distance up to 200 kms which was earlier 100 km

[Notification No.94/2020 – Central Tax dated December 22, 2020]

Liberalization in Procedures related to Export of Goods and Services

With a view to enhance the ease of doing business in India and quicken the approval process, the RBI has decided to delegate more powers to the Authorized Dealer Category – I banks (AD banks) in the following areas:

1. Direct Dispatch of Shipping Documents

AD banks have now been allowed to regularize all cases, without any limits, of dispatch of shipping documents by the exporter direct to the consignee or his agent resident in the country of the final destination of goods for subject to fulfillment of certain conditions. The earlier limit of USD 1 million or its equivalent per export shipment is now done away with.

2. “Write-off” of unrealized Export bills

To provide greater flexibility to the AD banks and to reduce the time taken for according such approvals, the existing procedure is revised as under:

Particulars	Limit	Limit (%) In relation to
Self-write-off by an exporter (Other than the Status Holder Exporter)	5%	Total export proceeds realized during the calendar year preceding the year in which the write-off is being done
Self-write-off by Status Holder Exporter	10%	
Write-off by AD Category-1 Bank	10%	

The above limits of self-write-off and write-off by the AD bank shall be reckoned cumulatively and shall be available subject to fulfillment of certain conditions.

3. Set-off of Export receivables against Import payables

Presently, AD banks are allowing exporters/importers to set-off their outstanding export receivables against outstanding import payables from/to the same overseas buyer/supplier. RBI has been receiving requests from AD banks, on behalf of their Importer/Exporter constituents, for allowing such set-off with their overseas group/associate companies either on net basis or gross basis, through an in-house or outsourced centralized settlement arrangement. Accordingly, RBI has decided to delegate powers to AD banks to also consider such requests of set-off, and adhere to the revised guidelines issued in supersession of the earlier instructions.

4. Refund of Export Proceeds

The AD banks, through whom the export proceeds were originally realized, were allowed to consider requests for refund of export proceeds of goods exported from India and being re-imported into India on account of poor quality. There have been instances when re-importing of goods has not been possible as the exported goods had reportedly been auctioned or destroyed in the importing country.

The instructions have been reviewed and henceforth AD banks, while permitting refund of export proceeds of goods exported from India, shall not insist on the requirement of re-import of goods, where exported goods have been auctioned or destroyed by the Port / Customs / Health authorities/ any other accredited agency in the importing country subject to submission of satisfactory documentary evidence. In all other cases AD banks shall ensure that the procedures as applicable to normal imports are adhered to and that an undertaking from the exporter, to re-import the goods within three months from the date of refund of export proceeds, shall be obtained.

(RBI/2020-21/77 A.P.(DIR Series) Circular No. 08 dated December 4, 2020)

***Indian subsidiary
carrying out
installation and
commissioning of
equipment and
participating in
negotiation for supply
constitutes a PE in
India***

The Delhi Bench of Income-tax Appellate Tribunal (“the Tribunal”) in the case of Huawei Technologies Co. Ltd., a China based entity (“the tax payer”), dealt with the taxability of income from supply of telecommunication network equipment, its installation and commissioning.

Based on the facts and in the circumstances of the case, the Tribunal upheld the existence of business connection in India on the basis that there is real and intimate relation between the taxpayer and its Indian subsidiary, as the dominant purpose of the agreement is not sale by the tax payer but to commission the equipment, a function carried out by the Indian Subsidiary. The Tribunal upheld the existence of the permanent establishment. Further, it held that the income from sale of equipment by the tax payer in India would be attributable to Permanent Establishment (PE) in India.

This ruling lays down innovative principle for determining economic dependence in relation to dependent agent PE. The facts that (a) installation activities of the Indian Subsidiary are dependent on technical support by the tax payer and (b) business of the Indian subsidiary and the tax payer are inter-dependent have been found to be determinative of economic dependence.

(Huawei Technologies Co. Ltd. v. ADIT (ITA No. 1500/Del/2014 – Taxsutra.com))

General Circular ▶
**Regarding Relaxation of
Additional Fees and
extension of last date
of filing of CRA – 4
(Form for filing of Cost
Audit Report) for the
Financial Year 2019-20
under the Companies
Act, 2013**

The Ministry of Corporate Affairs vide its General Circular No. 38 dated 1st December, 2020 in continuation with General Circular No. 29 dated 10th September, 2020 decided that, the Cost Audit Report for the financial Year ended 31st March, 2020 shall be submitted by the Cost Auditor to the Company on or before 31st December, 2020 and the Company shall file the same in e-form CRA – 4 within 30 days from the date of receipt of the copy of the Cost Audit Report.

Link:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.38_01122020.pdf

http://www.mca.gov.in/Ministry/pdf/circular_10092020.pdf

Notification regarding ▶
**Commencement of
various sections of the
Companies
(Amendment) Act,
2020**

Ministry of Corporate Affairs vide notification dated 21st December, 2020 informs that, Sections 1, 3, 6 to 10, 12 to 17, 18 (1) & (b), 19 to 21, 22(i), 24, 26, 28 to 31, 33 to 39, 41 to 44, 46 to 51, 54, 57, 61 and 63 of the Companies (Amendment) Act, 2020 has been effective from 21st December, 2020.

Link:

http://www.mca.gov.in/Ministry/pdf/CommencementNotification_24122020.pdf

The Companies ▶
**(Incorporation) Third
Amendment Rules,
2020**

- **Original Rule:** The Companies (Incorporation) Rules, 2014.
- **Date of Notification:** 24th December, 2020.
- **Effective date of Amendment:** 26th January, 2021.
- **Amendment:** To amend The Companies (Incorporation) Rules, 2014 to insert new rule 9A after rule 9 which is related to extension of reservation of name in certain cases. Rule 9A read as under:

Rule 9A. Extension of reservation of name in certain cases Upon payment of fees provided below through the web service available at www.mca.gov.in, the Registrar shall extend the period of a name reserved under rule 9 by using web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32), upto:

(a) forty days from the date of approval under rule 9, on payment of fees of rupees of one thousand rupees made before the expiry of twenty days from the date of approval under rule 9;

(b) sixty days from the date of approval under rule 9 on payment of fees of rupees two thousand made before the expiry of forty days referred to in clause (a) above;

(c) sixty days from the date of approval under rule 9 on payment of fees of rupees three thousand made before the expiry of twenty days from the date of approval under rule 9:

Provided that the Registrar shall have the power to cancel the reserved name in accordance with sub-section (5) of the Act.

Link:

http://www.mca.gov.in/Ministry/pdf/ThirdAmdtRules_24122020.pdf

***The Companies
(Meeting of Board and
its powers) Fourth
Amendment Rules,
2020:***

- **Original Rule:** The Companies (Meeting of Board and its powers) Rules, 2014.
- **Date of Notification:** 30th December, 2020.
- **Amendment:** To amend The Companies (Meeting of Board and its powers) Rules, 2014 as follows:

As per the sub – rule 4 of the Companies (Meetings of Board and its Powers) Fourth Amendment Rules, 2020, now Companies can transact the following matters through video conferencing or other audio visual means upto 30th June, 2021:

- 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(1) 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/FourthAmdtRules_30122020.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.39 dated 31st December, 2020 with reference to the earlier General Circular No.14 dated 8th April, 2020, General Circular No.17 dated 13th April, 2020, General Circular No.22 dated 15th June, 2020 and General Circular No.33 dated 28th September, 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 June, 2021.

Link:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.39_31122020.pdf

Due dates for the Month of February, 2021#

Regulation	Due Date	Compliance	Description
Employees' State Insurance Act, 1948- (ESIC)	15-Feb-21	ESIC Payment	ESIC Payment for the month of January, 2021.
Goods and Service Tax (GST)	10-Feb-21	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of January 2021
	10-Feb-21	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of January 2021
	11-Feb-21	GSTR 1 (Monthly)	Return of outward supplies of taxable goods and/or services for the Month of January 2021 (for Assesses having turnover exceeding 1.5 Cr.)
	13-Feb-21	GSTR 6	Return for Input Service Distributors for the month of January 2021.
	20-Feb-2021 or 22-Feb-2021 or 24-Feb-2021	GSTR 3B	Simple GSTR return for the Month of January 2021 (based on category of taxpayer)
	28-Feb-21	GSTR-9 / 9A GSTR-9C	GST Annual Return and GST Annual Audit for FY 2019-20
Income Tax Act, 1961	7-Feb-21	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of January, 2021.
	14-Feb-21	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under section 194-IA / 194-IB in the month of Jan, 2020
	15-Feb-21	ITR	Due date for filing of return of income for the assessment year 2020-21 if the assessee is (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) required to submit a report under section 92E pertaining to international or specified domestic transaction(s) Note: The due date for submission of return of income for the Assessment Year 2020-21 has been further extended to February 15, 2021 vide Press Release, dated 30-12-2020.
	28-Feb-21	TDS/TCS	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2020.
The Maharashtra Shops and Establishments Act, 1948	28-Feb-21	Annual Return	Return in Form 'R' to be filed by every establishment under the Maharashtra Shop & Establishment Act.
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Feb-21	PF Payment	PF Payment for the month of Jan, 2021.

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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