

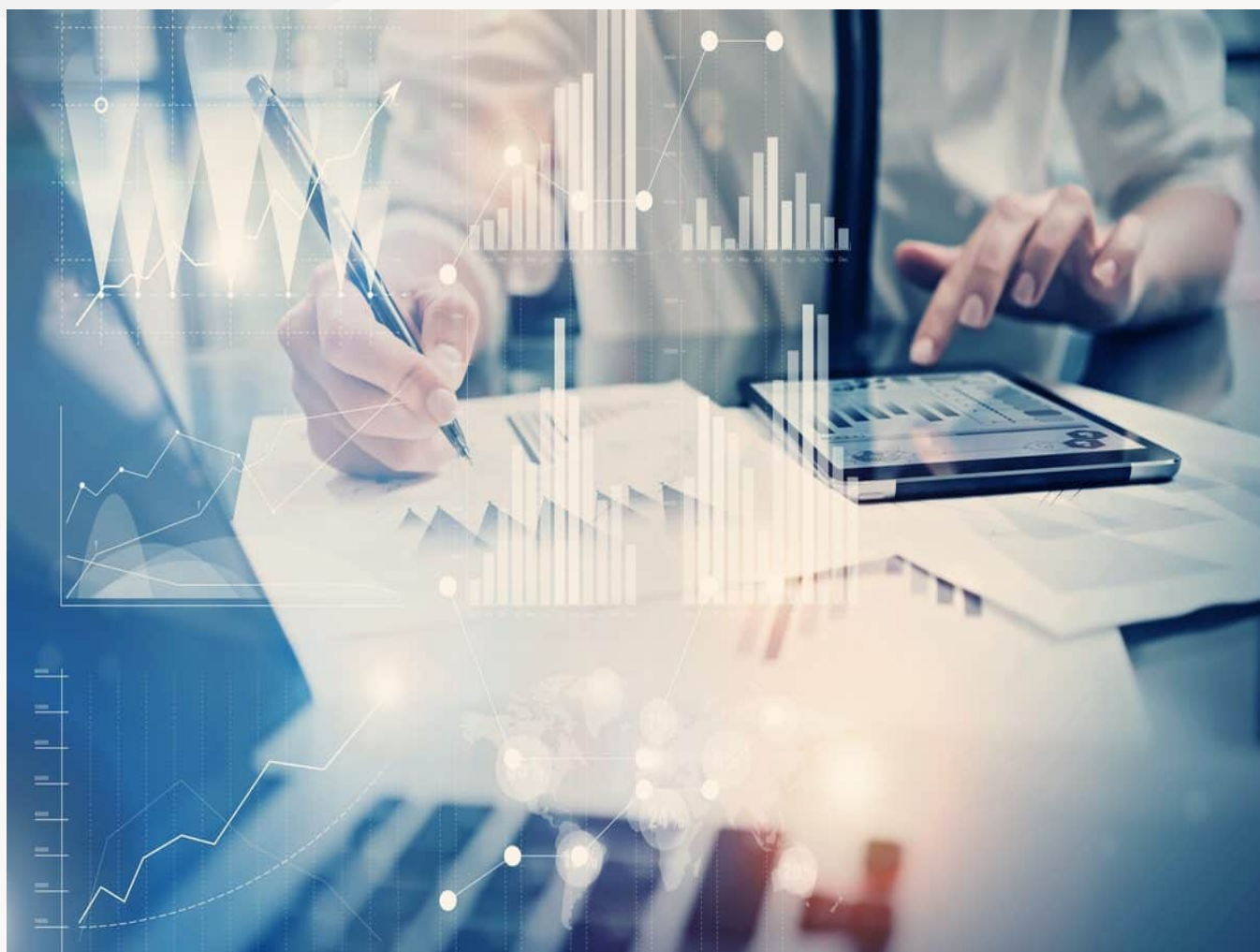
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Monthly Newsletter Series

July 2023 | Vol 120

KNOWL with an **EDGE**



Income Tax

| Page 1

by: Manish Parekh

GST

| Page 3

by: Vivek Shah

FEMA

| Page 6

by: Bhavesh Shah

International Taxation

| Page 7

by: Bhavesh Shah

Company Law

| Page 8

by: Pinkesh Jain

Compliance Calendar

| Page 9

by: Pinkesh Jain

CBDT issues circular to remove difficulty in implementation of changes relating to Tax Collection at Source (TCS) on Liberalised Remittance Scheme (LRS) and on Purchase of Overseas Tour program package.

Finance Act, 2023 has amended sub-section (1G) of section 206C of the Income-tax Act, 1961:

(I) increase the rate of Tax Collection at Source (TCS) from 5% to 20% for remittance under LRS as well as for purchase of overseas tour program package; AND
(ii) remove the threshold of Rs 7 lakh for triggering TCS on LRS.

These two changes did not apply when the remittance is for education and medical purpose.

Subsequently, the Government had notified Foreign Exchange Management (Current Account Transactions) (Amendment) Rules, 2023 vide an e-gazette notification dated 16th May, 2023 to remove the differential treatment for credit cards vis-i-vis other modes of drawal of foreign exchange under LRS. This change has now been postponed for the time being.

Comments were received about the practical difficulties that may arise from the removal of the threshold for LRS payments other than for education and medical treatment. During meetings with the RBI, Banks and Card networks, some financial institutions have desired more time to modify their current IT systems to address issues arising from the implementation of the provision of TCS on credit card transactions.

In order to address these issues, a Press Release dated 28.6.2023 was issued by Ministry of Finance wherein the following decisions relating to income-tax have been taken:

(i) Threshold of Rs 7 lakhs per financial year per individual in clause (i) of sub-section (1G) of Section 206C shall be restored for TCS on all categories of LRS payments through all modes of payments regardless of the purpose. Thus, for first Rs 7 lakh remittance under LRS there shall be no TCS. Beyond this Rs 7 lakh threshold, TCS shall be at the rate of :-

- a) 0.5% (if remittance for education is financed by loan taken from a financial institution);
- b) 5% (in case of remittance for education/medical treatment);
- c) 20% for others.

For purchase of overseas tour program package under clause (ii) of sub-section (1G) of section 206C, the TCS shall continue to apply at the rate of 5% for the first Rs 7 lakh per individual per annum; the 20% rate will only apply for expenditure above this limit.

ii) Increased TCS rates to apply from 1st October, 2023: The increase in TCS rates; which were to come into effect from 1st July, 2023 shall now come into effect from 1st October, 2023 with the modification as in (i) above. Till 30th September, 2023, earlier rates (prior to amendment by the Finance Act, 2023) shall continue to apply.

<https://incometaxindia.gov.in/communications/circular/circular-10-2023.pdf>

Extension of time limits for submission of certain TDS/TCS Statements for the first quarter of FY 2023-24 in Form 26Q, Form 27Q and Form 27EQ.

The CBDT provides relaxation in respect of the following compliances, namely:

(i) The statement of deduction of tax for the first quarter of the financial year 2023-24, required to be furnished in Form No. 26Q or Form No. 27Q, on or before 31st July, 2023 under Rule 31A of the Income-tax Rules, 1962 ("the Rules"), may be furnished on or before 30th September, 2023.

(i) The statement of collection of tax for the first quarter of the financial year 2023-24, required to be furnished in Form No. 27EQ, on or before 15th July, 2023 under Rule 31AA of the Rules, may be furnished on or before 30th September, 2023.

<https://incometaxindia.gov.in/communications/circular/circular-9-2023.pdf>

India tightens norms to plug likely tax swindling via donations to trusts

The Central Board of Direct Taxes has tightened norms for charitable, religious, and educational trusts

with their income tax returns, months after suspecting large tax evasions by taxpayers who made large donations to charitable trusts.

These entities will now need to provide additional disclosures, including the name, address, and permanent account numbers of donors who contribute more than Rs 2 lakh in a single day. The objective of this provision is to enhance transparency and accountability.

In addition to the donor information, these trusts will also be required to submit an undertaking affirming that the activities carried out by them are of a charitable, religious, or religious-cum-charitable nature. The Central Board of Direct Taxes has revised the format of this undertaking in accordance with the latest regulations, which will be effective from October

The government recently introduced changes to the registration framework for charitable organisations, specifically for claiming tax exemption or obtaining an 80G certificate under the Income Tax Act. As per the latest rules, newly established trusts or institutions must apply for provisional registration at least one month prior to the start of the financial year for which registration is sought.

<https://economictimes.indiatimes.com>

Tax returns filed late, directors of 2 Jewellery Companies get 6 months rigorous imprisonment.

Calling it an economic offence, in a rare instance, two directors of two jewellery firms at Zaveri Bazaar were sentenced to six months rigorous imprisonment in two cases for failing to file income tax returns on time in the same assessment year.

The accused, Jitendra Jain and Kiran Jain, are both directors of Saloni Jewellers Pvt Ltd and M/s Yellow Jewellers Pvt Ltd. Seeking the maximum sentence against the two, special public prosecutor Amit Munde said they are habitual offenders and similar case is pending against them.

While the total amount of around Rs 4.5 crore was subsequently deposited, the court did not absolve them. "I come to the conclusion that accused have failed to file return for 2014-2015 in time. Though it is

filed subsequently, it cannot be considered here. Accused are directors of accused no 1 company. They have not denied their directorship.

<https://timesofindia.indiatimes.com>

ITR filing: Not linking PAN with Aadhaar can cost you Rs 6,000

If you didn't link your PAN with Aadhaar by June 30, 2023, then from July 1, 2023, your PAN will be tagged as in-operative. One of the consequences of PAN becoming inoperative is that you may not be able to file your income tax return (ITR) before July 31, 2023.

This is because the ITR deadline is less than one month away and it takes a maximum of 30 days for a PAN to become active again if it is inoperative presently once the penalty is paid.

Hence, if you pay a penalty now and wait for PAN to become operative again, then there is a chance of missing the deadline to file ITR. Hence, if the ITR is filed after the expiry of the deadline i.e. July 31, 2023, then it will be filed as a belated ITR. Do keep in mind that there is a late filing fee for filing a belated ITR. The penalty for filing a belated ITR is Rs 5,000 (if total income exceeds Rs 5 lakh).

<https://economictimes.indiatimes.com>

CBIC Notifies the Guidelines for Processing Of Applications for GST Registration

The Central Board of Indirect Taxes and Customs (CBIC) notified the guidelines for processing applications for registration. The instances have come to notice regarding unscrupulous elements obtaining fake/ bogus registration under GST and defrauding the Government exchequer.

Various modus operandi of obtaining such fake registrations have been detected by Central and State Tax administrations. In some cases, identities of other persons like PAN, Aadhaar, etc. have been misused without their knowledge to obtain GST registration

Following guidelines have been issued for strengthening the verification process uniformly:

1. Initiating Scrutiny and Verification
2. Careful Examination of Documents and Details
3. Risk Rating and Consideration
4. Check for Previous Registrations and Risky Circumstances
5. Physical Verification and Background Checks
6. Communication with the Applicant
7. Verification Report and Final Decision
8. Monitoring and Post-registration Compliance

Instruction No. 03/2023-GST New Delhi, dated 14th June, 2023

Online Compliance Pertaining to Liability / Difference Appearing in R1 – R3B (DRC-01B)

The Goods and Service Tax Network (“GSTN”) has issued an Advisory dated June 29, 2023 on Online Compliance Pertaining to Liability / Difference Appearing in R1 – R3B (DRC-01B).

It is informed that GSTN has developed a functionality to enable the taxpayer to explain the difference in GSTR-1 & 3B return online as directed by the GST Council. This feature is now live on the GST portal. The functionality compares the liability declared in GSTR-1/IFF with the liability paid in GSTR-3B/3BQ for each return period. If the declared liability exceeds the paid liability by a predefined limit or the percentage difference exceeds the configurable threshold, taxpayer will receive an intimation in the form of DRC-01B.

Upon receiving an intimation, taxpayer must file a reply in Form DRC-01B Part B, providing clarification through reason in automated dropdown and details regarding the discrepancy, if not included in the dropdown.

To further help taxpayer with the functionality, a detailed manual containing the navigation details is available on the GST portal. It offers step-by-step instructions and addresses various scenarios related to the functionality.

Two Factor Authentication mandatory for taxpayers with AATO above Rs. 100 crore from 15th July 2023

The National Informatics Centre (NIC) has announced that 2-factor authentication (2FA) will be made mandatory for all taxpayers with an Aggregate Annual Turnover (AATO) above Rs. 100 crore from July 15, 2023. This is being done to enhance the security of the e-Way Bill/e-Invoice System and to prevent fraudulent activities. **In addition to username and password, OTP will also be authenticated for login.**

There are 3 different ways of receiving the OTP. One may enter any of the OTP and login to system. The various modes of generating OTP are explained below:

1. **SMS:** OTP will be sent to the registered mobile number as SMS.
2. **On 'Sandes' app:** Sandes is a messaging app provided by government so that one can send and receive messages. One may download and install the Sandes app on their registered mobile number and receive the

OTP in it.

3. **Using 'NIC-GST-Shield' app:** 'NIC-GST-Shield' is a mobile app provided by e-Way Bill /e-Invoice System, so that OTP can be generated by using the app.

Highlights of the 50th GST Council Meeting

I. Recommendations relating to GST rates on Services:

A. Changes in GST rates of services:

1. **Satellite Launch Services:** GST exemption on satellite launch services supplied by ISRO, Antrix Corporation Limited, and New Space India Limited (NSIL) may be extended to such services supplied by private sector organizations to encourage startups.

B. Other changes relating to services:

2. **Goods Transport Agencies (GTAs):** GTAs will not be required to file a declaration for paying GST under forward charge every year. The option to pay GST under forward charge must be exercised by 31st March of the preceding financial year.
3. **Services Provided by Directors:** Services provided by a director of a company in his private or personal capacity, such as renting immovable property, will not be taxable under reverse charge mechanism (RCM). Only services supplied by a director in their capacity as a director of the company or body corporate will be taxable under RCM.
4. **Food and Beverages in Cinema Halls:** Supply of food and beverages in cinema halls will be taxable as a restaurant service (5%) if supplied independently of the cinema exhibition service.

Casinos, Race Courses, and Online Gaming

S. No.	Activities	Current GST Rate	Recommended GST Rate
1	Casinos	18%	28%
2	Horse Racing	18%	28%
2	Online Gaming	18%	28%

II. Recommendations relating to GST rates on Goods

A. Changes in GST Tax Rates for Goods

1. **Uncooked/Un fried Snack Pellets:** The rate on uncooked/unfried snack pellets will be reduced to 5%, and payment of GST for past periods will be regularized.

B. Other changes relating to goods:

2. **Dinutuximab (Quarziba) Medicine:** IGST exemption will be provided for imported Dinutuximab (Quarziba) medicine for personal use.
3. **Medicines and Food for Special Medical Purposes (FSMP):** IGST exemption will be extended to imported medicines and FSMP used in the treatment of rare diseases listed under the National Policy for Rare Diseases, subject to existing conditions. The exemption will also apply to FSMP imported by Centers of Excellence for Rare Diseases or recommended institutions.
4. **Supply of Raw Cotton:** Supply of raw cotton, including kala cotton, by agriculturists to cooperatives will be taxable under reverse charge mechanism, and issues related to past periods will be regularized.
5. **Imitation Zari Thread or Yarn:** GST rate on imitation zari thread or yarn will be reduced from 12% to 5%, and payment of GST for past periods will be regularized.
6. **Utility Vehicles:** Entry 52B in the compensation cess notification will be amended to include all utility vehicles that meet specified parameters. The ground clearance in unladen condition will be clarified.

7. LD Slag: GST rate on LD slag will be reduced from 18% to 5% to promote better utilization and environmental protection.
8. Implants: Issues relating to trauma, spine, and arthroplasty implants prior to 18.07.2022 will be regularized due to genuine interpretational issues.
9. Fish Soluble Paste: GST rate on fish soluble paste will be reduced from 18% to 5%, and payment of GST for past periods will be regularized.
10. Desiccated Coconut: Issues relating to desiccated coconut for the period 1.7.2017 to 27.7.2017 will be regularized due to genuine interpretational issues.
11. Pan Masala and Tobacco Products: The earlier ad valorem rate applicable on 31st March 2023 will be notified for the levy of Compensation Cess on pan masala, tobacco products, etc., where it is not legally required to declare the retail sale price.
12. Banks for IGST Exemption: RBL Bank and ICBC Bank will be included in the list of specified banks eligible for IGST exemption on imports of gold, silver, or platinum. The list of eligible banks/entities will be updated as per the Foreign Trade Policy 2023.
13. Notifications: Consequential changes will be made in notifications in accordance with the new Foreign Trade Policy 2023.
14. Plates and Cups made of Areca Leaves: Issues relating to GST on plates and cups made of areca leaves prior to 01.10.2019 will be regularized.
15. Biomass Briquettes: Issues relating to GST on biomass briquettes for the period 01.7.2017 to 12.10.2017 will be regularized.

S. No.	Goods/Items	GST Rate Before Recommendation	Recommended GST Rate	Regularization of Past Payment
1.	Uncooked/Unfried Snack Pellets	18%	5%	"As is basis"
2.	Dinutuximab (Quarziba) Medicine	—	Exempt	—
3.	Medicines and FSMP for Rare Diseases	—	Exempt	—
4.	Raw Cotton (including kala cotton)	—	Taxable (under RCM)	"As is basis"
5.	Imitation Zari Thread or Yarn	12%	5%	"As is basis"
7.	LD Slag	18%	5%	—
9.	Fish Soluble Paste	18%	5%	"As is basis"

Remittances to International Financial Services Centres (IFSCs) under the Liberalised Remittance Scheme (LRS)

Presently, remittances to IFSCs under LRS can be made only for making investments in securities in terms of A.P. (DIR Series) Circular No. 11 dated February 16, 2021.

Vide the gazette notification no. SO 2374(E) dated May 23, 2022 issued by the Central Government, courses offered in Financial Management, FinTech, Science, Technology, Engineering, and Mathematics by foreign universities or institutions in the International Financial Services Centre are classified as financial services under the Section 3(1)(e) of the IFSC Act. In view of the said notification it is directed by the RBI that Authorized Persons may facilitate remittances by resident individuals under purpose 'studies abroad' as mentioned in Schedule III of Foreign Exchange Management (Current Account Transactions) Rules, 2000 for payment of fees to foreign universities or foreign institutions in IFSCs for pursuing courses mentioned in the gazette notification *ibid*.

RBI/2023-24/45 A.P. (DIR Series) Circular No. 06 dated June 22, 2023

Tax Residency Certificate is an essential requirement to claim tax treaty benefits.

Based on the facts and in the circumstances of the case, recently, the Ahmedabad Bench of the Income Tax Appellate Tribunal (the Tribunal) in the case of Parag Bhikhubhai Patel emphasized the significance of a Tax Residency Certificate (TRC) in substantiating the claim of tax treaty benefits. The TRC, obtained from the taxpayer's foreign country of residence, serves as a crucial document for supporting the claim under the tax treaty. Failure to provide a valid TRC will result in the rejection of the claim by the Income Tax authorities.

The Tribunal's decision highlights the importance of obtaining and submitting a TRC when filing an Indian tax return. The individual is required to confirm the availability of the TRC (relevant to the period for which treaty benefits are claimed) by selecting 'Yes' or 'No' in the ITR form. Even if the TRC is not available at the time of filing, it remains essential for the taxpayer to acquire the TRC to support their claim of tax treaty benefits. Failure to provide a TRC may lead to the rejection of the claim by the tax authorities.

Parag Bhikhubhai Patel v. ITO [I.T.A. No.464/Ahd/2020 (AY: 2016-17)]

Amendment to The Limited Liability Partnership Rules, 2009

The Ministry of Corporate Affairs (MCA) has issued a notification on 02nd June, 2023 to amend the Limited Liability Partnership Rules, 2009 by notifying the Limited Liability Partnership (Amendment) Rules, 2023. The Amendment replaces the existing LLP Form No. 3 with the new LLP Form No. 3 to be filed for giving information with regard to initial LLP Agreement or any changes therein.

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzM5MDg1NzQy&docCategory=Notifications&type=open>

Relaxation in payment of additional fees in case of delay in filing Form DPT-3 (Return of Deposit) for the financial year ended on 31st March, 2023

The Ministry of Corporate Affairs (MCA) vide a general circular No. 06/2023 dated 21st June, 2023 has allowed Companies to file Form DPT-3 for the financial year ended on 31st March, 2023 without paying additional fees up to 31st July, 2023.

<https://www.mca.gov.in/bin/dms/getdocument?mds=GZbzY8G5s24kITjoGKWLQQ%253D%253D&type=open>

Amendment to Insolvency and Bankruptcy Code, 2016

The Ministry of Corporate Affairs (MCA) has issued a notification on 14th June, 2023. The notification specifies that the provisions of Section 14(1) of the Insolvency and Bankruptcy Code, 2016, shall not apply to the following transaction, arrangements or agreements entered into by the corporate debtor:

(i) the Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases made under the Oilfields (Regulation and Development) Act, 1948 (53 of 1948) and rules made thereunder; and

(ii) any transactions, arrangements or agreements, including Joint Operating Agreement, connected or ancillary to the transactions, arrangements or agreements referred to in clause (i). Section 14(1) of

the Insolvency and Bankruptcy Code, lists out the various actions which are prohibited on account of the moratorium i.e. temporary protection provided to the Corporate Debtors from any new legal proceedings and against present proceedings.

<https://www.mca.gov.in/bin/dms/getdocument?mds=igjGKv5zktdufUjKGZkigA%253D%253D&type=open>

Compliance Calendar

by: Pinkesh Jain
pinkesh.jain@hscollp.in

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Due dates for the Month of Aug, 2023#

Regulation	Due Date	Compliance	Description
Income Tax Act, 1961	7-Jul-23	TDS	Due date for deposit of Tax deducted/collected for the month of Jul, 2023
	14-Aug-23	TDS	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194-M in the month of June, 2023
	15-Aug-23	TCS	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2023
	31-Aug-23	TDS	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 July, 2023
	31-Aug-23	TDS	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit return of income on October 31, 2023).
Goods and Service Tax (GST)	10-Aug-23	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of July 2023
	10-Aug-23	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of July 2023
	11-Aug-23	GSTR -1	Return of outward supplies of taxable goods and/or services for the Month of July 2023 (for Assesses having turnover exceeding 5 Cr.)
	13-Aug-23	GSTR 6	Return for Input Service Distributors for the month of July 2023
	13-Aug-23	IFF-QRMP	Option of uploading Invoices for July 2023 using Invoice Furnishing Facility (IFF) applicable to tax payers opted for Quarterly Return Monthly Payment (QRMP) Scheme
	20-Aug-2023 or 22-Aug-2023 or 24-Aug-2023	GSTR-3B	Simple GSTR return for the Month of July 2023 (based on category of taxpayer)
PT Act 1975 (Employee)	31-Aug-23	PT Employees	Monthly PT Payment for the month of Jul, 2023
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Aug-23	PF Payment	PF Payment for the month of July, 2023
Employees' State Insurance Act, 1948 - (ESIC)	15-Aug-23	ESIC Payment	ESIC Payment for the month of July, 2023

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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 Brigade IRV, 9th & 10th
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Whitefield,
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E: bangalore@hscollp.in**Pune**
 1A, 2nd Floor, City Vista,
Fountain Road,
Kharadi,
Pune – 411 014
E: pune@hscollp.in**Hyderabad**
 Unit 301, Inani House,
Kavuri Hills Madhapur,
Phase II, Near D-Mart,
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