



## Tax & Regulatory Updates – Key developments of July 2020

### Direct Taxation

1. Central Board of Direct Taxes (CBDT) extended the due date for furnishing of belated / revised income tax return for all taxpayers for AY 2019-20 till 30 September 2020 and relaxation granted to Senior citizens in advance tax:- *Notification No. 56/2020, dated 29 July 2020*

CBDT vide its notification dated 29 July 2020 further extended the due date for filing of belated /revised return for AY 2019-20 from 31 July 2020 to 30 September 2020.

Further, relaxation has also been provided to the senior citizens who are required to pay advance tax for AY 2020-21. CBDT now provides that any self assessment tax paid by pre-extended due date (31 July 2020 in most cases) shall be treated as advance tax in their cases for AY 2020-21.

## **2. CBDT Chairman asked the tax officers to compute tax demand for all assesseees by 31st August and dispose of pending appeals:- *News report***

Considering the shortfall in tax collections on account of Covid pandemic, CBDT Chairman P C Mody has set monthly targets for field officers to dispose the appeals and asked them to compute taxes for all assesseees by August-end. In a letter to the Principal Chief Commissioners of Income Tax, he said that many taxpayers are waiting to file applications under 'Vivad Se Vishwas' amnesty scheme, but they are also waiting for correct demand to be intimated to them. He also set a monthly target of disposing of pending appeals by sending communication through the e-filing portal and or through emails only. He has also asked each Commissioner of Income Tax (appeals) to dispose of at least 80 appeals per month, and immediately take up for disposal of all pending appeals filed on or before March 31, 2016.

<https://economictimes.indiatimes.com/news/economy/policy/compute-tax-demand-for-all-asseeseees-by-august-31-dispose-of-pending-appeals-cbd-t-chief-to-taxmen/articleshow/77312151.cms>

## **3. CBDT has issued a Circular providing one-time relaxation for verification of e-filed tax returns for AYs 2015-16 to 2019-20, which are pending for processing due to non-filing of ITR-V form by the taxpayers:- *Circular No. 13/2020 dated 13 July 2020***

CBDT has granted this relaxation due to the pendency of a large number of such returns for processing as such returns being declared as Non-est / invalid. Therefore, the taxpayer can send a physical copy of the ITR-V to CPC, Bengaluru or verify the ITR through EVC/OTP modes, by **30 September 2020**. CBDT has also prescribed the timeline of 31 December 2020 for processing of such returns by the department. However, in refund cases, section 244A(2) will apply which bars the interest due to delay attributable to the taxpayer.

CBDT has also clarified that this relaxation shall not apply in those cases, where the 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.

#### **4. Standard Operating Procedure issued by the Registry of Supreme Court for mandatory filing of soft copy of the petitions alongwith physical documents:- *Circular F.No.10/Judl. 2020, dated 27 July 2020***

The registry of the Supreme Court has issued the Standard Operating Procedure (SOP) directed the Advocate-on-Record (AOR) and Party-in-Person to file soft copy of the petitions alongwith physical copy of documents at the filing counter of the Registry. The soft copy is required to be uploaded by the AOR and Party-in-person on email id specifically created for the purpose i.e. [soft.petition@sci.nic.in](mailto:soft.petition@sci.nic.in). An undertaking of compliance of this requirement be enclosed with the hard copy at the time of original filing or re-filing in response to any defects. The subject of email shall clearly state “Soft copy of petition and the accompanying documents in Diary No.....”.

#### **5. CBDT relaxed the time-line further for processing of income tax returns under section 143(1) of the Income Tax Act having refund claims:- *Office Order dated 10 July***

Second proviso to section 143(1) prescribes that the intimation under section 143(1) can be sent to the assessee till 1 year from the end of the financial year in which return was filed. However, CBDT has noticed that several returns which were validly filed under section 139 or 142 or 119 of the Income Tax Act for the AY's upto 2017-18 could not be processed due to certain technical issues or any other reasons not attributable to the assessee and intimation under section 143(1) could not be sent to the assessee within the prescribed time period. This situation has led to a situation where the taxpayer is unable to claim legitimate refunds.

Earlier CBDT vide its office order dated 05 August 2019 extended the time limit for processing of such returns (for non-scrutiny cases) till 31 December 2019. CBDT has now vide its office order dated 10 July 2020 has relaxed the said time limit and an intimation for processing (post approval of Pr.CCIT/ CCIT) of such returns can be sent to the assessee by 31 October 2020. However the said relaxation would not apply to the following cases:-

- a) Returns selected in scrutiny.
- b) Returns remain unprocessed, where either demand is shown as payable in the return or is likely to arise after processing it.
- c) Returns remaining unprocessed for any reason attributable to the assessee.

This would help large number of cases where refund / rectification applications are stuck for the sole reason of expiry of timeline for processing of tax returns.

## **6. CBDT amended Rule 31AA of Income Tax Rules for filing of TCS statements in view of recent amendments:- *CBDT Notification No. 54/2020 dated 24 July 2020***

You are aware that the Finance Act 2020 inserted the following additional clauses where the receiver of the money is required to collect tax at source i.e. TCS from buyer:-

- a) An Authorised Dealer to collect TCS @ 5% from the remitter of amount of INR 7 lakhs or more in a FY under the Liberalised Remittance Scheme of Reserve bank of India.
- b) A seller of an overseas tour package to collect TCS @ 5% from the buyer of that package.
- c) Any seller (whose total sale exceeds INR 10 crore in the preceding FY) of any sale of goods to collect TCS @ 0.1% from the buyer on the sales exceeding INR 50 lakhs during the FY in aggregate. Certain exclusions were also provided no such collection is required.

Rule 31AA(4) of the Income Tax Rules provides for the particulars to be furnished while filing the TCS returns by a collector. CBDT vide notification no. 54/2020 amended the above rule to include the reporting of the following exclusions, accordingly assessee is also required to furnish the particulars of amount received or debited on which tax was not collected:-

- a) By authorised dealer from a buyer remitting the money outside India where the amount is less than INR 7 Lakhs in a financial year and is for the purpose other than the purchase of overseas tour package.
- b) By authorised dealer in case the TCS have already been collected by the seller of the tour package from the buyer.
- c) By authorised dealer in case the TCS has not been collected due to any of the following reasons:-
  - i. Buyer is liable to deduct the TDS on such amount.
  - ii. Buyer is the Central Government, State Government, an embassy, a High Commission or any other person as referred u/s 10(20) of the Income Tax Act.
  - iii. Buyer is exempted by the central government by the way of notification subject to the conditions mentioned in such notification.
- d) By seller from the buyer on the sale of sale of any goods of the value or aggregate of such value exceeding INR 50 Lakhs in any previous year since the buyer is already deducting the TDS on such sale of goods.
- e) By seller wherein the buyer of goods is the Central Government or a State Government or an embassy, a High Commission, legation, commission, consulate or trade representation of a foreign State or a local authority as defined in the Explanation to clause (20) of section 10; or a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette.

Also, CBDT vide the above notification amended Rule 37-I to provide that where the TCS has been collected against the above transactions, credit shall be allowed to the person of whom it was collected in the assessment year relevant to the previous year in which such tax collection is made.

Further, section 206AA read with rule 37BC provides that the assessee while making certain type of payments to a foreign company such as Interest, FTS etc. not having PAN in India or any non-resident individual shall not deduct the TDS at higher rate even the receiver does not have PAN in India, provided the receiver furnishes the details specified in rule 37BC(2). Now CBDT vide the above notification also added **dividend** in the said provision in view of amendment made by Finance Act, 2020.

#### **7. CBDT provides Utility to ascertain TDS applicability rates on cash withdrawals u/s 194N:- *Press Release dated 12 July 2020***

CBDT has issued a press release on the roll out of the functionality for successful implementation of withholding of taxes @ 2% / 5% by a banking company, co-operative society and a post office on cash withdrawals exceeding INR 20 lakhs (in case of non-filers of ITR) and INR 1 crore (at higher rate in case of non-filers) in aggregate during a Financial Year. This functionality is available as “Verification of applicability u/s 194N” on [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in) and has also been made available to the Banks through web-services, so that the entire process can be automated and be linked to the Bank’s internal core banking solution.

The functionality uses PAN and mobile number based One Time Password (OTP) verification to display the applicable withholding rate and threshold for cash withdrawals as per the return filing compliance status of a PAN holder. Additionally, it only confirms the applicable TDS rate and threshold but does not provide any details of compliance status of the person to maintain the confidentiality of such details.

#### **8. New Form 26AS to provide significant additional information to the Taxpayers for ease of filing of ITR's:- *Press Release dated 18 July 2020***

With a view to widen the coverage of Form 26AS so that the taxpayer has much more information readily available at one place, Finance Act 2020 has introduced a new section 285BB to replace the existing format but in a complete new Avtar. The format of the said new comprehensive Form has already been notified vide Notification G.S.R. 329(E), 28 May 2020 and the same is applicable w.e.f 1 June 2020.

CBDT has now issued a Press Release highlighting the additional information that will be available to a taxpayer in the new form and how the same will significantly help the taxpayers for smooth filing of their return of income, that too without any mistake due to availability of all possible relevant information at one place.

As per the press release, the taxpayers will see an improved Form 26AS which would carry some key additional details on taxpayers financial transactions such as the transactions reported by the filers in the Statement of Financial Transactions (SFTs) under various categories. The said information that is being received by the Income Tax Department from the SFT filers will now appear in Part E of Form 26AS to facilitate voluntary compliance and ease of e-filing of returns by the taxpayers. This help the taxpayers recall all their major financial transactions so that they have a ready reckoner to enable them while filing the ITR without any mistake or under reporting on their part

The Form 26AS will display in part E of the Form, different fields such as, type of transaction, name of SFT filer, date of transaction, single/joint party transaction, number of parties, amount, mode of payment and remarks etc.

#### **9. CBDT notifies new business under section 10(23FE) inserted by Finance Act 2020 giving exemptions to income from investments by Sovereign funds:- Notification No. 44/2020**

Finance Act, 2020 introduced a section 10(23FE) to provide exemptions to sovereign funds for all incomes in the nature dividend, interest or long-term capital gains arising from an investment made by it in India whether in the form of debt or share capital or unit, subject to certain conditions. The section prescribes that the investment must be in a InvIT or an Infrastructure facility mentioned in section 80IA(4) such as ports, road projects, highway projects, water supply projects etc. The said section also gives power to the Union government to prescribe any other businesses vide a delegated legislation through a Notification.

In view of the above, CBDT vide the above notification specifies the business which are listed in the Infrastructure sub-sectors under the Updated Harmonised Master List of Infrastructure Sub-sectors in the notification F.No.13/3/2017-INF dated 13th August, 2018 issued by Government of India in the Ministry of Finance, Department of Economic Affairs. This Notification of 2018 has five categories of Transport and Logistics, Energy, Water and Sanitation, Communication and Social & Commercial Infrastructure. Also, this list has multiple additional activities over and above those listed in section 80IA.

This would help the investors to invest in a much wider portfolio basis their preference for the sub-sectors within the main Infrastructure sector. The above notification shall come into force from 01 April 2021 and shall be applicable for assessment year 2021-22 and subsequent assessment years.

## **10. CBDT has prescribed the procedure for notification of Sovereign Wealth Funds for exemption u/s 10(23FE) of the Act:- Circular no 15 dated 22 July 2020**

Finance Act, 2020 introduced a section 10(23FE) to provide exemptions to sovereign wealth funds (SWF) for all incomes in the nature dividend, interest or long-term capital gains arising from an investment made by it in India whether in the form of debt or share capital or unit, subject to certain conditions. The section prescribes that the investment must be in a InvIT or an Infrastructure facility mentioned in section 80IA(4) such as ports, road projects, highway projects, water supply projects etc. The said section also gives power to the Union government to prescribe any other businesses vide a delegated legislation through a Notification. Further, CBDT vide its notification dated 06 July 2020 specifies the business which are listed in the Infrastructure sub-sectors under the Updated Harmonised Master List of Infrastructure Sub-sectors in the notification F.No.13/3/2017-INF dated 13th August, 2018 issued by Government of India in the Ministry of Finance, Department of Economic Affairs. This Notification of 2018 has five categories of Transport and Logistics, Energy, Water and Sanitation, Communication and Social & Commercial Infrastructure. Also, this list has multiple additional activities over and above those listed in section 80IA.

Now, CBDT vide its circular dated 22 July 2020 specifies that the interested SWF shall file an application in Form 1 (prescribed in the Circular) with the Member (Legislation), CBDT during the FY 2020-21 and thereafter to Member, CBDT having supervision and control over the work of Foreign Tax and Tax Research Division. Also, SWF shall be required to file a return of income along with audit report and a quarterly statement in Form II within one month from the end of the quarter. The procedure for furnishing and verification of the form shall be laid down by Principal Director General of Income Tax/ Director General of Income Tax (Systems).

## **11. CBDT amended the Rules for furnishing the statement by Investment fund to the Unit holders and the tax authorities under section 115UB of the Income Tax Act:- Notification No. 55/2020, dated 28 July 2020**

As per Section 115UB(1) of the Income Tax Act, any income accruing or arising to the unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if such person had made the investments directly by him. Further as per section 115UB(7), the person responsible for crediting or making the payment on the behalf of the investment fund is required to file a statement in the prescribed form as per the rule 12CB of the Income Tax Rules.

Recently, CBDT vide its notification dated 28 July made the following amendments to the above rule prescribing procedure for filing of the statement. The changes in the rule are as follows:-

- a) Now, form 64C is required to be filed to the unit holder to be filed after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems). Earlier form 64C was required to file directly and there was no such condition of generating the form from a web portal.
- b) Now, form 64D which is required to be filed to the Principal Commissioner or the Commissioner of Income Tax, by 15th June. Earlier the due date was 30th November.

Further, there are certain changes made in Form Nos. 64C and 64D.

### **12. Transfer Orders issued by CBDT of more than 400 officers at the level of Assistant / Deputy Commissioners on pan India basis:- *Office Order No. 133 and 134 dated 29 July 2020***

As per the recent order and as per the protocol, CBDT has transferred officers in the grade of Assistant / Deputy Commissioners of Income Tax on pan India basis and under various wings of income tax department.

### **13. Memorandum of Understanding (MOU) signed between Central Board of Direct Taxes and Central Board of Indirect Taxes and Customs for exchange of data:- *Press Release dated 21 July 2020***

On 21 July 2020, an MOU has been signed between CBDT and CBIC for auto and regular sharing of data and information of the taxpayers / organisations. In addition to regular exchange of data, CBDT and CBIC will also exchange with each other, on request and spontaneous basis, any information available in their respective databases which may have utility for the other organisation. A Data Exchange Steering Group has also been constituted for facilitating the said mechanism and it will periodically review the operational efficiency of the mechanism and also to make necessary adjustments to improve the effectiveness of the data sharing mechanism. It is pertinent to note that this MOU will supersede the erstwhile MOU signed between CBDT and CBEC in the year 2015.

### **14. MOU signed between CBDT and Ministry of Micro, Small and Medium Enterprises:- *Press Release dated 20 July 2020***

On 20 July 2020, an MOU has been signed between the CBDT and MSME Ministry for auto and seamless sharing of data by CBDT with MSME Ministry. Recently, the classification limits of the MSME have been redefined by the Ministry of MSME and as per the said classification, the calculation of plant and machinery shall be taken as per the value of plant and machinery mentioned in the Income Tax Return of last previous year. Thus, this MOU will facilitate sharing of such information in relation to the Income-tax Return (ITR) by the Income Tax Department to the MSME Ministry.



**15. Central Government specified certain category of persons for sharing the information received by income-tax department in public interest:- *Notification No. 52/2020 dated 21 July 2020***

Recently, the Central Government vide its notification dated 21 July 2020, specified the following bodies / agencies with whom information can be shared by the income tax department about the taxpayers in public interest and to assist these bodies / agencies in performing their duties under the respective law:

- a) Cabinet Secretariat
- b) Intelligence Bureau (IB)
- c) Narcotics Control Bureau (NCB)
- d) National Investigation Agency (NIA)

**16. Central Government specified officials of Competition Commission of India (CCI) for sharing the information received by income-tax department:- *Notification No. 57/2020 dated 30 July 2020***

Recently, the Central Government vide its notification dated 30 July 2020, specified the Director General/ Secretary, of CCI with whom information can be shared by the income tax department.

Further CBDT vide a separate notification no 731(E) dated 28 July 2020 specified the following specified authorities for the purpose of sharing the information:-

- e) Chief Commissioner of Income Tax
- f) Director-General of Income-tax
- g) Commissioner of Income-tax
- h) Director of Income-tax
- i) Additional Commissioner of Income-tax
- j) Additional Director of Income-tax
- k) Joint Commissioner of Income-tax
- l) Joint Director of Income-tax.

Also it has been further clarified that the above income tax authorities are required to share the information only relevant and precise information after forming an opinion that furnishing of such information is necessary so as to enable the above notified authorities to perform its functions under the law being administered by it. Also to convey to maintain absolute confidentiality for the information furnished.

## **17. Memorandum of Understanding (MoU) signed between CBDT and SEBI for exchange of data:- Press Release dated 08 July 2020**

An MoU has been signed between CBDT and the Securities and Exchange Board of India (SEBI) for data exchange between the two organizations. The MoU will facilitate the sharing of data and information between SEBI and CBDT on an automatic and regular basis. A Data Exchange Steering Group has also been constituted for the initiative, which will meet periodically to review the data exchange status and take steps to further improve the effectiveness of the data sharing mechanism.

This would significantly help both the regulators i.e to the CBDT to widen the tax base by examining the activities of listed entities specifically focusing on Indian groups indulged in penny stock frauds and SEBI to reconcile the reportings of entities with the tax department.

## **18. Project office (PO) of the foreign entity cannot constitute a Permanent Establishment (PE) of the foreign entity as the core business activity was not carried on through the PO:- Supreme Court in the Case of Director of Income Tax-II Vs. Samsung Heavy Industries Co. Ltd. (Civil Appeal No. 12183 of 2016)**

### **Facts of the case in brief:-**

Oil and Natural Gas Company (“ONGC”) awarded a “turnkey” project which included Pre-engineering, survey, engineering, procurement and fabrication activities to a consortium comprising of Samsung Heavy Industries Co. Ltd (assessee) and Larsen and Toubro. Assessee set up a project office in Mumbai to act as a communication channel b/w assessee and ONGC. For the Assessment Year 2007-2008, assessee filed a Return of Income on showing nil profit and a business loss of INR 23.5 lacs with respect to the expenditure incurred in relation to the activities carried out in India. Later, assessing officer contented that the work relating to fabrication and procurement of material was wholly executed by PO as PE and it would be absurd to suggest that the PE in India was not associated with designing or fabrication of materials and finally attributed 25% of revenue earned outside India as the income of the assessee taxable in India. In the assessment order it was concluded that the assessee was doing something more than what would have been done through a liaison office and accordingly nature of activities undertaken in India clearly depicts PE in India.

ITAT has held that the assessee has not brought any material on record to prove that the activities of the PO are only preparatory or auxiliary in nature. However, it has set aside the issue of attribution to the files of the tax officer for appropriate computation after considering the necessary facts. The High Court has partly allowed the appeal in favour of the assessee

### **Observations of Supreme Court (SC):-**

- SC observed that the “permanent establishment” is that it should be an establishment “through which the business of an enterprise” is wholly or partly carried on. Further, the profits of the foreign enterprise are taxable only where the said enterprise carries on its core business through a permanent establishment.

- SC observed that the ITAT relied upon only the first paragraph of the Board Resolution passed for setting up the Project Office, and then jumped to the conclusion that the Mumbai office was for coordination and execution of the project itself. The finding, therefore, that the Mumbai office was not a mere liaison office, but was involved in the core activity of execution of the project itself is therefore clearly perverse. This is for the reason that it is mentioned in the Board Resolution that the Project Office was established to coordinate and execute “delivery documents in connection with construction of offshore platform modification of existing facilities for ONGC.

- SC observed that in the PO of the assessee there were only two persons who were working and neither of whom was qualified to perform any core activity of the assessee, however, ITAT ignored this important fact. Further, no expenditure relating to the execution of the contract was incurred by the PO in India was again not considered by the ITAT. Also, the finding of the ITAT that onus is on the Assessee and not on the Tax Authorities to first show that the project office at Mumbai is a permanent establishment is again in the teeth of our judgment in E-Funds.

In view of the above, the Apex Court has concluded that the PO does not constitute a 'fixed place' Permanent Establishment (PE) in India as per Article 5(1) of India-Korea DTAA as the PO is not engaged in any core business activity of the Assessee but was solely an auxiliary office which was setup to act as a liaison office between the assessee and ONGC.

### **19. Extension of interim orders by Delhi High Court till 31 August 2020 (W.P.(C) 3037/2020):**

Delhi High Court has extended all interim orders referred in the order dated 15 June till 31 August 2020 on account of Covid-19. This covers the matters pending before the High Court and the subordinate Courts including Tribunal except the cases where any contrary order is passed by the Supreme Court during the intervening period.

This should give relief to the taxpayers as well whose stay orders would be expiring during this time frame.

## **20. Extension of interim orders by Allahabad High Court till 31 July ((PIL) No. - 564 of 2020):- 14 July 2020:**

Allahabad High Court has extended all interim orders referred in the previous order dated 19 June till 31 July 2020 on account of Covid-19. This covers the matters pending before the High Court and the subordinate Courts including Tribunal.

This should give relief to the taxpayers (including a lot of Companies based in Noida) as well whose stay orders would be expiring during this time frame.

## **21. Indian Government has filed a response to USTR against the investigation initiated under the US Trades Act on EL:- News report**

India has filed a response with USTR defending the expansion of scope of Equalisation levy calling it non-discriminatory in nature. In its comment on the Section 301 probe launched by the US last month, the government said it was fully consistent with World Trade Organization norms and international taxation agreements.

It emphasised that the levy was applicable prospectively, and could not be said to have 'extra-territorial' application. India highlighted the lack of consensus in the multilateral consultations under the aegis of the G20-OECD framework. The EL is seen as an additional safeguard against 'base erosion and profit shifting' (BEPS) and loss of revenue due to activity of e-commerce firms in India.

To defend its case, India also quoted the US Supreme Court decision of South Dakota vs. Wayfair Inc. which was widely covered in the International media sometime back wherein the Court had reversed the past position and held that physical presence was not required for the levy of sales tax by a state where online seller had no physical presence but made online sales.

[https://www.business-standard.com/article/economy-policy/equalisation-levy-on-e-commerce-firms-govt-says-tax-in-line-with-wto-rules-120071700057\\_1.html](https://www.business-standard.com/article/economy-policy/equalisation-levy-on-e-commerce-firms-govt-says-tax-in-line-with-wto-rules-120071700057_1.html)

## **22. Provisions of expanded scope of Equalisation Levy do not require any FAQ's as per the Finance Secretary:- News Report**

Recently, the Finance Secretary, Ajay Bhushan Pandey ruled out issuing any clarifications or frequently asked questions (FAQs) on the scope of provisions of Equalization Levy which was significantly expanded by Finance Act, 2020 to cover large number of transactions including B2C.

“The amendments have been approved by Parliament, and notified. We came to know that some FAQs were being floated. The objective of FAQs is to explain the law in simple words. But here, the law is very clear,” said Pandey, at Ficci’s 17th Annual Capital Market Conference. He said every company had a tax advisor to interpret the law for them.

[https://www.business-standard.com/article/economy-policy/finance-secretary-rules-out-any-clarifications-on-equalisation-levy-120072301292\\_1.html](https://www.business-standard.com/article/economy-policy/finance-secretary-rules-out-any-clarifications-on-equalisation-levy-120072301292_1.html)

### **23. Amnesty scheme on cards for illegal gold hoarders as Government plans crackdown on tax evasion:- News Report**

As part of an effort to crack down on tax evasion and cut its dependence on imports, India’s Finance Ministry is considering an amnesty scheme for residents with illicit stash of gold. The government plans to ask people with unaccounted holdings of the metal to declare it to tax authorities. The proposal is at an early stage and authorities are seeking feedback from concerned officials. Earlier in 2015, the Government tried to tap the world’s largest private gold stash of about 25,000 tons held by households and institutions to trim physical demand and reduce imports by providing people with alternative avenues for investment. The program failed to generate interest as a section of the people didn’t want to part with their gold, usually in the form of jewellery and worn on special occasions while others feared being penalized by tax authorities.

### **24. Tax burden on salaried individuals, professionals to increase in Delhi due to levy of Professional tax:- News Report**

Recently, South Delhi Municipal Corporation (SDMC) has approved the levy of professional tax. Salaried individuals and working professionals like doctors, engineers, chartered accountants and other professionals will have to pay a small tax if their monthly income is more than INR 50,000. However, self employed people earning up to Rs. 6 lakh, are exempted from this tax. The decision is to bring the new sources of income to the civic body, as revenues have been badly hit due to the Covid pandemic. The decision to levy new tax is pending approval for the Delhi government.

<https://www.livemint.com/money/personal-finance/delhi-tax-burden-on-salaried-individuals-professionals-to-increase-11595901050464.html>

### **25. CBDT to commence 11-day e-campaign to enhance voluntary compliance in relation to filing of income tax return for AY 2019-20:- Press Release dated 18 July 2020**

You are aware that the last date for filing of revised / belated return of income for FY 2018-19 / AY 2019-20 is 31 July 2020. Accordingly, the Income Tax Department has decided to start an e-campaign to enhance the voluntary compliance pursuant to the same.

The eleven days campaign will start from 20 July till 31st July, 2020 to focus on taxpayers who are either non-filers or have discrepancies/deficiency in their returns for FY 2018-19. The objective is to facilitate the taxpayers to validate online their tax/financial transaction information available with the tax Department, so that they do not get into notice and scrutiny process etc. Taxpayers will receive email/sms to verify their financial transactions related information that is received by the tax Department from various sources such as Statement of Financial Transactions (SFT), TDS / TCS filing, Foreign Remittance forms, information received from GST department / DGFT / stock exchanges etc. under information triangulation set up and data analytics.

Under the e-campaign, the taxpayers will be able to access details of their high value transaction related information on the designated portal and they will be able to submit online response on the said portal.

## **26. CBDT restarts proceedings under the faceless scheme:- News Report**

As per the news report, the Central Board of Direct Taxes has recently issued the circular asking the officers to reach out to the assesses and start the proceedings in all the pending cases by e-communication with the taxpayers under the faceless scheme with the target of completing 5000 assessments a week. For least possible hassles to the taxpayers, CBDT has directed that the cases where partial response is on record may be prioritised.

<https://economictimes.indiatimes.com/news/economy/finance/central-board-of-direct-taxes-restarts-proceedings-under-faceless-scheme/articleshow/76947653.cms>

## **27. Tax department completed 7116 assessments under first phase of faceless scrutiny:- News Report**

Finance Minister Nirmala Sitharaman had announced the faceless assessment scheme in her Budget speech on 5 July 2019, which was subsequently inaugurated on 7 October 2019. As per a senior official of the Finance Ministry, Income tax Department has disposed of 7,116 cases under the first phase of faceless assessment system, since its launch on 7 October 2019 and implementation of the first phase. The taxpayers have been advised to check their registered e-filing accounts/email ids for notices or updates.

[https://economictimes.indiatimes.com/news/economy/finance/i-t-dept-disposes-7116-assessments-under-first-phase-of-faceless-scrutiny/articleshow/77049282.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cpps\\_t](https://economictimes.indiatimes.com/news/economy/finance/i-t-dept-disposes-7116-assessments-under-first-phase-of-faceless-scrutiny/articleshow/77049282.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cpps_t)

## **28. Government expects FY 2021 direct tax collections to fall short by about INR 3 lakh Crore:-**

### ***News report***

For the current fiscal, CBDT has set a collection target of Rs 13.19 lakh crore for this fiscal, however, it is estimated to be short by around 25% as per the current estimates of the Government. Considering the major gap, taxpayers might witness lot of action from tax authorities in the coming months or later part of this fiscal in view of collection pressures.

<https://www.moneycontrol.com/news/business/economy/coronavirus-impact-government-expects-fy21-direct-tax-collections-to-fall-short-by-about-rs-3-lakh-crore-5582911.html>

## **29. Direct tax refunds are down by 10% due to Covid-19 pandemic, says CBDT:- News report**

As per a recent communique by CBDT, Direct tax refunds are down by 10%, compared to the same period last year due to revenue shortfall on account of Covid-19 pandemic. Refunds, or cash outflow from the income-tax (I-T) department, stood at Rs 74,000 crore up to July 18 this fiscal, against Rs 82,000 crore worth of refunds disbursed in the same period last year.

[https://www.business-standard.com/article/economy-policy/direct-tax-refunds-down-10-amid-covid-19-pandemic-says-cbd-120072300052\\_1.html](https://www.business-standard.com/article/economy-policy/direct-tax-refunds-down-10-amid-covid-19-pandemic-says-cbd-120072300052_1.html)

## **30. Government has no proposal to merge the two Boards of Revenue (CBDT and CBIC):- Press**

### ***Release***

A primary business daily had published a news that the government is considering the proposal to merge Central Board of Direct Taxes and the Central Board of Indirect Taxes and Customs basis the recommendations of Tax Administrative Reforms Commission (TARC). However, later finance ministry vide its press release has rejected the said report as baseless and factually incorrect as the government has no plans to merge the two revenue boards. The government has clarified that the said recommendation from TARC was not accepted by the Government and the action taken report on the recommendations of the TARC is placed even on the website of Department of Revenue, which clearly shows that this recommendation was not accepted.

## **31. Industry body Indian Private Equity & Venture Capital Association (IVCA) seek one time relaxation in Capital Gains Tax:- News Report**

As the situation of COVID 19 pandemic continues, the economic activities has almost hit the rock bottom, the investors have also withdrawn their funds from the market which is a very alarming sign for a long term slow down. The Industry body IVCA on 21 July 2020 wrote a letter to the government asking for a one time relaxation from long-term capital gains (LTCG) tax on private equity investment for two years. Experts believe a tax exemption can especially sweeten the deal for global funds looking for higher risk-adjusted returns and

strengthen their case for investing in India. Businesses are in the dying condition and the only hope for their revival is in the form of inflow of funds which could possibly happen if the government agrees on to such demand of the industry regarding the exemption.

[https://www.business-standard.com/article/companies/pe-vcs-see-one-time-tax-holiday-to-tide-over-covid-induced-crisis-120072001027\\_1.html](https://www.business-standard.com/article/companies/pe-vcs-see-one-time-tax-holiday-to-tide-over-covid-induced-crisis-120072001027_1.html)

### **32.OECD's Forum on Tax Administration releases report on Tax Administration Responses to COVID-19:-**

Tax administrations around the globe are taking on new responsibilities to support wider government actions to help address the impacts of the COVID-19 pandemic and support their taxpayers and citizens. OECD Forum on Tax Administration (FTA) in collaboration with the FTA's Enterprise Risk Management Community of Interest prepared a report Tax Administration Responses to COVID-19: Assisting Wider Government. The report sets out some of the considerations that tax administrations may wish to take into account when dealing with these new responsibilities triggered by the COVID-19 crisis which often go beyond the functions normally provided by tax administrations.

The report also highlights the opportunities to build on lessons learned to improve the resilience and agility of tax administrations for the future.

[https://www.taxsutra.com/news/26077/OECD%E2%80%99s\\_FTA\\_releases\\_report\\_on\\_Tax\\_Administration\\_Responses\\_to\\_COVID-19%2C\\_e-learning\\_module\\_on\\_recovery-period\\_considerations](https://www.taxsutra.com/news/26077/OECD%E2%80%99s_FTA_releases_report_on_Tax_Administration_Responses_to_COVID-19%2C_e-learning_module_on_recovery-period_considerations)

### **33.Global Forum Secretariat delivers new toolkit to help countries become Party to the Convention on Mutual Administrative Assistance in Tax Matters:-**

The COVID-19 crisis has brought renewed attention to the role and importance of multilateral co-operation in combating tax evasion and helping fiscal consolidation. In line with its mandate to deliver technical assistance and support capacity building, the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) has now produced a Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters (MAAC). The toolkit outlines the benefits of joining the MAAC, overview of the MAAC's main provisions, its relationship with other treaties and legal instruments, and a step-by-step guide to becoming a party, from the preparation stage to the signature and deposit of instruments of ratification, acceptance or approval. The toolkit was jointly developed by the OECD and the Council of Europe in 1988, and amended through protocol in 2010. As of July 2020, 137 jurisdictions are participating.



The toolkit is designed to facilitate countries reaching an informed decision on whether to join the MAAC and to provide guidance on the steps to be taken and how to better prepare for joining.

<http://www.oecd.org/tax/exchange-of-tax-information/global-forum-secretariat-delivers-new-toolkit-to-help-countries-become-party-to-the-convention-on-mutual-administrative-assistance-in-tax-matters.htm>

### **34. UN committee approved draft model tax treaty provisions addressing digital economy, transfer pricing manual updates:- News report**

The UN Committee of Experts on International Cooperation in Tax Matters, at its 20th session, agreed to consider adding new provisions addressing the taxation of the digital economy to the UN Model Double Taxation Convention between Developed and Developing Countries, UN officials have confirmed.

The Committee of Experts also adopted new and revised chapters for the United Nations Practical Manual on Transfer Pricing for Developing Countries and approved changes to the UN model tax convention's commentary. Moreover, new chapters were approved for inclusion in UN handbooks on tax dispute avoidance and resolution and on environmental taxation.

The Committee of Experts approved changes to the UN Model tax convention's commentary concerning the meaning of the term "beneficial owner" when used in relation to certain types of income. Another approved change addresses income attributed to a source country in the case of engineering and procurement contracts.

<https://mnetax.com/un-committee-to-draft-digital-tax-provision-for-model-treaty-approves-transfer-pricing-manual-updates-39313>

### **35. OECD releases Model Rules for Reporting by digital platforms in the sharing and Gig Economy:**

OECD has recently released a new global tax reporting framework, the Model Rules for Reporting by Platform Operators with respect to the Sellers in the Sharing and Gig Economy ("MRDP"). Under the MRDP, digital platforms are required to collect information on the income realised by those offering accommodation, transport and personal services through platforms and to report the information to tax authorities. The platform economy also means increased access to information for tax administrations, as it brings activities previously carried out in the informal cash economy onto digital platforms. The MRDP is designed to help taxpayers being compliant with their tax obligations, while ensuring a level-playing field with traditional businesses, in key sectors of the sharing and gig economy.

<http://www.oecd.org/tax/exchange-of-tax-information/oecd-releases-global-tax-reporting-framework-for-digital-platforms-in-the-sharing-and-gig-economy.htm>

### **36. US determines France's DST as 'unreasonable / discriminatory', announces 25% additional duties on French products:- News report**

This is further to our June update wherein we have covered that USA has initiated investigation into the Digital Tax levies by multiple countries including India under section 301 of the Trade Act. In continuation to the same, the United States Trade Representative (USTR) announces imposition of ad valorem duties of 25% on specified French products covering 21 tariff subheadings and issues notice of action in the Section 301 Investigation of France's Digital Services Tax (DST). However, USTR has suspended the application for a period of up to 180 days to allow additional time for bilateral and multilateral discussions that could lead to a satisfactory resolution of this matter. USTR determines that France's DST as unreasonable or discriminatory and burdens or restricts U.S. commerce.

### **37. OECD hoping for 'Blueprints' of Digital Tax Plan by October:- News Report**

As per the news report, OECD has been working under immense pressure to prepare the final blueprints on Digital taxation i.e. Pillar One and Pillar Two. Finally the technical work is not the only work the OECD has been working upon, but making the countries implement such methods without the disagreement is another big challenge. OECD is aiming to complete such technical work by October this year. The OECD had initially targeted July for reaching consensus, but Covid has extended the timeline alongwith international politics.

<https://news.bloombergtax.com/daily-tax-report-international/oecd-hoping-for-blueprints-of-digital-tax-plan-by-october>

### **38. New Digital Tax Rules are expected by year end despite Covid-19:- News Report**

As per a recent communique after a meeting between G20 finance ministers and central bank governors, it was said that despite the disruptions created by COVID-19 pandemic, they remain committed to achieving consensus on new digital tax rules by year-end. The goal is to continue work on both "pillars" of the reform. The "pillar one" reform would allocate additional taxing rights to countries where the multinational group's customers reside. The "pillar two" reform would impose a new, internationally coordinated minimum tax on multinational group income. The OECD Secretary-General said that further work is required on the other elements of the Unified Approach to reduce complexity, such as reducing the scope of segmentation and simplifying the process to eliminate double taxation.

<https://mnetax.com/g20-finance-ministers-again-pledge-to-agree-on-new-multinational-group-tax-rules-by-year-end-39447>

### **39. New York proposes 10% Digital Tax:- *DAT Bill***

The New York State Assembly would impose a sliding scale of taxes on digital advertising services that use personal information about the people the advertisements are targeting. The tax starts at 2.5% imposed on the annual gross revenues derived from digital advertising services in New York of a taxpayer with global annual gross revenue of \$100 million to \$1 billion, increases to 5% on revenues over \$1 billion through \$5 billion, 7.5% on revenues above \$5- to \$15 billion, and tops out at 10% on revenues exceeding \$15 billion. If the said bill is passed, the measures would go into effect immediately and apply to taxable years w.e.f 1 January 2021.

[https://assembly.state.ny.us/leg/?default\\_fld=&bn=A10706&term=2019&Summary=Y&Actions=Y&Text=Y&Committee=&Votes=Y&Floor=&Votes=Y](https://assembly.state.ny.us/leg/?default_fld=&bn=A10706&term=2019&Summary=Y&Actions=Y&Text=Y&Committee=&Votes=Y&Floor=&Votes=Y)

### **40. Apple has won a major battle in the Irish State aid case:-**

Apple won a major legal victory this week against European antitrust regulator as a European court overruled a 2016 decision that ordered the company to pay \$14.9 billion in unpaid taxes to Ireland. The Apple case stems from the company's use of Ireland as its base for its European operations. In 2016, the European Union's top competition regulator said Apple had used illegal deals with the Irish government to avoid taxation on profits from the sales of Apple products in the European Union. The authorities said the arrangement amounted to an illegal subsidy not available to Apple's competitors, and ordered Ireland to recover 10 years of back taxes, worth 13 billion euros, or about \$14.9 billion at current conversion rates. Apple and Ireland appealed the judgment, arguing that the structures were consistent with tax laws.

This would have significant implications on similar such cases initiated by European Commission in the last few years.

<https://www.nytimes.com/2020/07/15/business/apple-eu-ireland-tax.html>

### **41. US IRS finalizes the regulations concerning deductions under the two important international tax regimes - FDII & GILTI:- *Press release by US IRS***

The Internal Revenue Service's (IRS) has issued final regulations that provide guidance on deductions for the two important schemes introduced under the new US tax regime few years back i.e. foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI) allowed to domestic corporations under Internal Revenue Code. These final regulations provide guidance on both the computation of the deductions available and the determination of FDII. In addition to the above, the regulations also provide guidance for the computation of FDII in the consolidated return context.

<https://www.irs.gov/newsroom/irs-finalizes-guidance-on-deduction-for-foreign-derived-intangible-income-and-global-intangible-low-taxed-income>

#### **42. European Commission has proposed a new 'fair & simple' tax package for European Union's (EU) economic recovery:- *Press release by European Commission***

The European Commission has adopted an ambitious new Tax Package to ensure that EU tax policy supports Europe's economic recovery and long-term growth. The package is built on the twin pillars of fairness and simplicity. The package seeks to boost tax fairness, by intensifying the fight against tax abuse, curbing unfair tax competition and increasing tax transparency. In parallel, the package focuses on simplifying tax rules and procedures, to improve the environment for businesses across the EU.

Tax package outlines three separate but related initiatives:

- a) Tax Action Plan - With the 25 distinct actions to make taxation simpler, fairer and better attuned to the modern economy over the coming years.
- b) The proposal on administrative cooperation - The new tax package extends the EU tax transparency rules to digital platforms through auto exchange of information within member states.
- c) The Communication on tax good governance - This focuses on promoting fair taxation and clamping down on unfair tax competition, in the EU and internationally.

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1334](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1334)

#### **43. Dutch Government to step up fight against tax avoidance with new withholding tax on dividend flows:- *Press release by Govt. of Netherlands***

In 2024, Dutch government is planning to introduce a new withholding tax on dividend flows to low tax jurisdictions. The new tax will enable the Netherlands to tax dividend payments to countries that have levy little or no tax and will also help curb the use of the Netherlands as a conduit country. The measure will apply to financial flows to countries with a corporate tax rate of under 9% and to countries on the EU blacklist even if the Netherlands has a tax treaty with them.

In addition to the above, the Dutch government has sent parliament a letter on tax treaty policy expressing the Netherlands' wish to do even more to take developing countries' interests into account. Since these countries often have little other tax revenue, it is particularly important that they can levy enough tax on the income generated by activities and investments there. The Netherlands is therefore willing to make agreements with these countries to give them more taxation rights, including in situations where dividend, interest or royalty

payments are made from these countries. For the 47 poorest developing countries, the Netherlands is open to include a 'source state tax' on payments for technical services carried out in the developing country.

<https://www.government.nl/latest/news/2020/05/29/government-to-step-up-fight-against-tax-avoidance-with-new-withholding-tax-on-dividend-flows>

#### **44. European Court of Justice (ECJ) strikes down EU-US Privacy Shield:- News report**

In a landmark judgement, the Court of Justice of the European Union struck down European Commission's 2016 decision that held that the EU-US Data Protection Shield provides adequate protection to data of European users when it is transferred to the US. The Court held that when users' personal data is transferred outside the EU by a data exporter located in the EU, users must be afforded the same level of protection guaranteed within the EU. This has to take into account the contract between the data exporter in the EU and the data processor in the third country, and how public authorities may access this transferred data. The Court also ruled that EU countries' individual data protection commissions must "suspend or prohibit a transfer of personal data to a third country" if the protection required by EU law cannot be ensured.

This would have significant impact on future such transfers of data outside EU, more importantly after the implementation of EU GDPR regulations in 2018.

[https://www.medianama.com/2020/07/223-us-eu-privacy-shield-struck-down/?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+medianama+%28Medianama%3A+Digital+Media+In+India%29](https://www.medianama.com/2020/07/223-us-eu-privacy-shield-struck-down/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+medianama+%28Medianama%3A+Digital+Media+In+India%29)

#### **45. UK-HMRC seeks consultation on tackling Promoters of Tax Avoidance and proposes amendments to 'anti-avoidance' regimes, GAAR partnership changes:-**

Recently, UK HMRC publishes a consultation paper and seeks views on proposals to strengthen the regimes that target those who promote or enable tax avoidance arrangements and proposes changes to the following anti-avoidance regimes:

- a) Disclosure of Tax Avoidance Schemes (DOTAS)
- b) Promoters of Tax Avoidance Schemes (POTAS)
- c) Penalties for Enablers of Defeated Tax Avoidance
- d) General Anti Abuse Rule (GAAR)
- e) Disclosure of Avoidance Schemes: VAT and other indirect taxes (DASVOIT)

The changes being proposed for those regimes are discussed in chapters three to seven of the consultation. While chapter eight provides a summary of the impact from these changes, Chapter nine includes a list of all the questions on which responses are sought and chapter ten details how to respond or ask questions. The responses/ comments to the consultation can be sent to [ca.consultation@hmrc.gov.uk](mailto:ca.consultation@hmrc.gov.uk) till 15 September 2020.

## **Indirect Taxation**

### **1. CBIC notifies Schema for E-Invoice today, SEZ units are excluded from E-Invoicing:**

The Central Board of Indirect Taxes and Customs (CBIC) notified the Schema for E-Invoice for implementing e-invoicing, a form of electronically-authenticated invoices, from October 1 for businesses with a turnover of INR 500 crore or more under GST. This is in continuation to the recent media reports.

### **2. Clarification on issue of GST rate on alcohol based hand sanitizers issued by Ministry of Finance:- *Press Release ID: 1638769***

The Finance Ministry has issued a press release clarifying that hand sanitizers attract GST at the rate of 18%. Sanitizers are disinfectants like soaps, anti-bacterial liquids, dettol etc. which attracts a standard rate of 18% under the GST regime. It further clarified that inputs for manufacture of hand sanitizers are chemicals, packing material, input services, which also attract a GST rate of 18%. Reducing the GST rate on sanitizers and other similar items would lead to an inverted duty structure and put the domestic manufacturers at disadvantage vis-a-vis importers

### **3. Extension for filing of GSTR-4:- *Notification no. 59/2020-Central Tax, dated 13 July 2020***

The CBIC has issued a notification amending notification no. 21/2019-Central Tax, dated 23.04.2019 to extend the time limit for filing of Form GSTR-4 for FY 2019-20 from 15.07.2020 to 31.08.2020. The said form is an annual return to be filed by a composition dealer.

### **4. Lawyer has no right to be present in search and seizure (WP no. 9184/2020 in case of Subhash Joshi & Anr. vs. Director General of GST Intelligence (DGGI) & Ors.):**

The High Court of Madhya Pradesh dismissed a petition requesting that search of the premises of the Petitioner under section 67 of the GST Act should be carried out in the presence of the Advocate. The Court held that the counsel for Petitioner has failed to point out any statutory provision or any such legal right in favour of the petitioner. The Court relied upon rulings of the Supreme Court wherein the Court has held that a person who is summoned for recording of statement cannot demand presence of his lawyer as a right.

### **5. Restriction on refund of ITC on input services in case of inverted duty structure held as ultravires section 54 of CGST Act (Gujarat High Court in VKC Footsteps India Pvt. Ltd. vs. Union of India & Ors. in R/Special Civil Application No. 2792 of 2019):-**

The Petitioner is engaged in manufacture and supply of footwear which attracts GST at 5%. The Petitioner procures input services such as job work service, goods transport agency service etc. and inputs such as synthetic leather, PU Polyol, etc., on payment of applicable GST for use in the course of business and avails input tax credit of the GST paid thereon. Majority of the inputs and input services attract GST at the rate of 12% or 18%. Thus, GST rate paid by the Petitioner on procurement of input is higher than the rate of tax payable on their outward supply of footwear. Respondents are allowing refund of accumulated input tax credit of tax paid on inputs such as synthetic leather, PU Polyol, etc. However, refund of accumulated credit of tax paid on procurement of input services such as job work service, goods transport agency service, etc. is being denied. The Petitioners therefore challenged validity of amended Rule 89(5) of the CGST Rules to the extent it denies refund of input tax credit relating to input services.

The Court observed that from the conjoint reading of the provisions of Act and Rules, it appears that by prescribing the formula in Rule 89(5) of the CGST Rules to exclude refund of tax paid on "input service" as part of the refund of unutilised input tax credit is contrary to the provisions of Section 54(3) of the CGST Act which provides for claim of refund of "any unutilised input tax credit". The Court observed that "input tax" is defined in Section 2(62), whereas the word "input" is defined in Section 2(59) means any goods other than capital goods and "input service" as per Section 2(60) means any service used or intended to be used by a supplier and thus, "input" and "input service" are both part of the "input tax" and "input tax credit". The Court held that Explanation (a) to the Rule 89(5) is read down to the extent that Explanation (a) which defines "Net Input Tax Credit" means "input tax credit" only. The said explanation (a) of Rule 89(5) of the CGST Rules was held to be contrary to the provisions of Section 54(3) of the CGST Act and it was held that the Net ITC should mean "input tax credit" availed on "inputs" and "input services" as defined under the Act.

#### **6. Constitutionality of section 13 of IGST Act which provides location of service provider as place of supply for intermediary services upheld (Gujarat High Court in Material Recycle Association of India vs. Union of India and Ors., R/Special Civil Application NO. 13238 of 2018):-**

The Petitioner challenged the vires of section 13(8)(b) of IGST Act which provides that place of supply for intermediary services is the location of supplier of service. The Petitioner challenged the same on the grounds that the Section violates Articles 14, 19, 265 and 286 of the Constitution of India. The Petitioner submitted that the section is violative of Article 14 of the Constitution of India as it renders differential treatment when services supplied within territory of India and when supplied outside the territory of India. It was further argued that the section does not have any nexus with the object sought to be achieved which are rendered within India and to exclude those where the services are clearly exported. The Section is against Government's policy to export the goods and not the taxes.

The Court held that it cannot be said that the provision of Section 13(8)(b) r.w. Section 2(13) of the IGST Act are ultra vires or unconstitutional in any manner. It held that there is no distinction between the intermediary services provided by a person in India or outside India. The Court further observed that only because, the invoices are raised on the person outside India with regard to the commission and foreign exchange is received in India, it would not qualify to be export of services, more particularly when the legislature has thought it fit to consider the place of supply of services as place of person who provides such service in India.

### **7. Government moves Supreme Court against Delhi High Court order allowing cash refund for ITC to Bharti Airtel:**

The Government has moved to the Supreme Court against an order of Delhi High Court allowing cash refund of INR 923 crore to Bharti Airtel. The High Court allowed refund to the company for the amount of ITC the Company was unable to claim in GST returns due to non-operationalisation of GSTR-2A during period July 2017 to September 2017 thus compelling to pay the liability in cash. The High Court observed that refund of excess cash balance in terms of section 49 (6) read with section 54 “does not effectively redress Petitioner’s grievance” and “the only remedy that can enable the Petitioner to enjoy the benefit of the seamless ITC utilization is by way of rectification of its return”.

<https://www.livemint.com/industry/infotech/govt-moves-sc-against-bharti-airtel-s-rs-9-23-billion-gst-refund-11594204321058.html>

### **8. Application for advance ruling rejected as the supply was proposed to be undertaken from a place outside the State where the application was filed:-Maharashtra AAR in Apar Industries Limited in GST-ARA-37/2019-20/B-42**

The Applicant procured orders from the ‘Defence Machinery Design Establishment (DMDE), Department of Defence Research & Development (DDRD), Ministry of Defence (MOD), Government of India (GOD), for certain goods for their use in Warships as “Parts of goods of heading 8906 OR as Parts of Warship”. The PO was raised on the head office located in Maharashtra. Accordingly, the application for advance ruling was filed before Maharashtra AAR. The goods would be supplied from Applicant’s factory at Umergaon, (Vapi and Gujarat) and as such the “Tax Invoice”, which must accompany the goods, moved on inter-state basis to Delhi, would also be issued from the Gujarat State. The Authority held that section 95 allows the Authority only to decide on matters or on questions in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the Applicant i.e. in the subject case this application can be entertained only if he Applicant is in Maharashtra and the supply of goods or services or both being undertaken or proposed to be undertaken by it is from Maharashtra. The AAR held that the application for advance ruling made by the Applicant was not maintainable.



**9. GST not applicable on accounting entry made in books of Project Office for salaries of Expat Employees paid by the Foreign Company (Maharashtra AAR in Hitachi Power Europe GMBH in GST-ARA-38/2019-20/B-27):**

The Hitachi Power Europe GmbH - Project Office (Applicant) is a Project Office (PO) in India of the Hitachi Power Europe GmbH -HO, established under the FEMA, 1999 and is permitted to undertake only activity of execution of project (wholly or partly) in India that is awarded to the Foreign Company i.e. the HO, outside India. For expat employees, the TDS compliances and issuance of Form 16 is done by the Project Office. For administrative convenience, salary to Expat employees is paid from the HO's bank account located abroad. In order to keep record of the expenses of salary cost of Expat employees working from India, the Project Office makes an accounting entry in its financial books of accounts in India for the salary cost of the Expat employees. A query was raised on applicability of GST on this accounting entry. The Authority held that project office in an extension of the foreign HO and thus the expat employees are employees of the employer i.e. the Head Office and since the Project Office is an extension of the Head Office, there is a relation of employer and employee between the Project Office and the expat employees. Accordingly, it was held that GST is not applicable as there exists an employer employee relationship.

**10. Input tax credit not available for inputs and input services used for construction of immovable property given on rent (Maharashtra AAR in Ashish Arvind Hansotiin GST-ARA-88/2019-20/B-30):**

The applicant has completed construction of a property and has availed input tax credit on receipt of supply of various goods and services for pre & post construction of said Property. The applicant would be letting out the Property to various tenants on which GST will be charged under the head 'renting of immovable property'. In this background, the question was regarding entitlement of ITC on inputs and input services used in construction of the said Property. The Authority held that the ITC is not available as it is hit by section 17(5)(d) of the GST Act. The Authority distinguished the ruling of High Court of Orissa in Safari Retreats which allowed ITC in such cases on the basis that the ruling has been challenged by the department in the Supreme Court and thus the entire matter can now be considered afresh by the Authority.

Availment of input tax credit on goods and services used for construction of immovable property which rented is becoming a contentious issue with department and taxpayers divided. The taxpayers are of the view that the expression 'own use' under section 17(5)(d) does not cover cases where the property is rented out to someone else.

**11. Input tax credit not available on paver blocks laid on land being immovable property:-  
Maharashtra AAR in Sundharams Private Ltd. in GST-ARA-36/2019-20/B-41**

The Applicant is providing warehousing, storage and support services to the OEMs of automobile industry, transports cars/tractors using its fleet of car carrier vehicles. During the course of these services, the cars are stored in the Applicant's stock yard prior to their transit to the car dealers. The Applicant has purchased tax paid paver blocks which are laid in the parking area of the land without any attachment to the earth. The paver blocks are not to be permanently embedded on earth and are capable of being removed as such without causing damage to them for reuse elsewhere. The lease deed executed by the Applicant contains a clause to the effect that the Company shall remove such Paver Blocks and take possession of the same on vacation of the premises. Further, the expenditure on purchase of paver block is not capitalized and treated as revenue expenditure.

The Authority held that the paver blocks brought to the site wouldn't serve any purpose unless the same are placed on land on their own weight, fitted by way of interlocking, and made working. It further observed that removal would always involve a total dismantling which cannot be without loss or damage and that such systems have a longevity of existence in terms of the aspect that these are not set up and removed frequently. The AAR held that the paver blocks once erected and assembled, continue to operate from where they are positioned and actually become a part of the parking facility.

**12. Order under section 74 of the GST Act without issuing notice under section 61 of the GST Act set aside:- High Court of Bihar in Shiv Kishor Construction Private Limited vs. UOI in WP no. 7144/2020**

The authorities vide show cause notice dated 08.02.2020, directed the Petitioner to submit his reply to show cause on or before 07.03.2020 but the final order was passed on 02.03.2020 itself. The Petitioner contended that the order is bad in law and completely without jurisdiction for the reason of non-compliance of mandatory requirement of Section 61 of the GST Act. The High Court held the authority without any prior intimation or knowledge preponed the matter and without affording any opportunity of hearing, decided, holding the view of the revenue. The order entailed civil and pecuniary consequences, causing prejudice to the petitioner. The High Court held that principles of natural justice stand violated and set aside the order and directed for a fresh hearing.

**13. Removal of Pendency of registration application filed during COVID period:-Circular no. CBEC-20/06/11/2020-GST/1137 Dated 17.07.2020**

Strong apprehensions had been raised on possible misuse of the deeming provision during the COVID lock down period, where either the central / state tax offices are closed or are functioning with skeletal staff. Since

the lockdown applied across all establishments including those belonging to the Government (Central and State), during the lockdown period there being no 'working days', it had been decided that the deemed approval of application of registration would not be granted on the portal with effect from 25.03.2020. Accordingly, deemed approvals had been held up.

Since the lock down is over in most of the areas and offices are open since 15.06.2020, deemed approvals have been granted for all those applications pending as on 30.06.2020, which had not been processed till 15.07.2020. It has been further decided that the applications received thereafter which remain pending as on 31.07.2020 shall be deemed approved on 31.07.2020 and the 3 days deemed approval of application of registration would be resumed from 01.08.2020.

**14. Detention of goods not allowed on the basis that invoices did not bear continuous numbers (Kerala High Court in Devices Distributors vs. The Assistant State Tax Officer and Ors. in W.P(C).No.14969 OF 2020):-**

The goods being transported by the Petitioner were detained on the basis that it was found that the tax invoices furnished, although carried serial numbers, they were not consecutive for the three invoices. The detaining authority suspected that the invoices carrying the serial numbers in between the two sets of invoices indicated above might have been used for transportation of other goods that were not brought to the notice of the Department.

The Court observed that a person is required to carry a copy of the tax invoice, together with a copy of the e-way bill, while transporting the goods either interstate or intrastate. The form of the invoice is specified in Section 31 of the CGST Act read with Rule 46 of the CGST Rules. In the instant case, it is not in dispute that e-way bills did accompany the goods. The Court observed that the entertainment of such a doubt by the authority cannot be a justification for detaining the goods in question, especially when they were admittedly accompanied by tax invoices as also e-way bills that clearly indicated the particulars that were required by Rule 46 of the GST Rules. The Court further observed that the doubt entertained by the department was in respect of goods that may have been transported under cover of the invoices that numerically fell between the numbers shown in the invoices that were carried along with the goods, and in that sense, pertained to goods other than those that were actually detained.

Accordingly, the Court ordered to forthwith release the goods detained by the Department.

### **15. Petitioner awarded cost of INR 1,00,000 for delay in disbursal of refund (Gujarat High Court in Century Copper Rod Pvt. Ltd. vs. The Assistant Commissioner, Central Excise And Service Tax Division II Surat 1 in R/SPECIAL CIVIL APPLICATION NO. 8225 of 2020):-**

The Petitioner approached the High Court for delay in disbursal of refund. The CESTAT had allowed the appeal of the petitioner vide order dated 09.05.2019 and held that the petitioner was entitled to refund. After the order of the Tribunal, the petitioner approached the Assistant Commissioner for making refund. The Assistant Commissioner passed order on 20.08.2019 holding that the petitioner was although entitled for refund, but directed that the said amount may be credited in the account of the “Consumer Welfare Fund”. The petitioner preferred appeal, which was allowed by order dated 27.09.2019 by the Commissioner (Appeals) and the matter was remitted to the Assistant Commissioner to pay the refund amount along with interest. Thereafter, the Assistant Commissioner has not made payment so far. The Department informed that the reason for withholding the refund is that the Department has preferred an appeal before the High Court against the order of the Tribunal dated 09.05.2019 in the month of February 2020.

The Court observed that no orders can be passed on the basis of apprehension or assumption that something may happen in future and deprive the petitioner which is a private limited company and will be requiring funds. The Court ordered that the interest of 6% would be payable up to the date when the amount was credited in the account of the Consumer Welfare Fund. The Court further held that the petitioner should be entitled for costs of the petition which could be fixed at INR 1,00,000 which may be recovered from the erring officers after due enquiry.

### **16. Input tax credit not available on purchase of lifts:- Madhya Pradesh AAR in Jabalpur Hotels Private Limited in Order No. 10/2020**

The Applicant is installing a lift in a hotel and approached the Authority asking eligibility of input tax credit. The Applicant argued that the good, “Lift” falls under HSN 8428 1011 / 8428 1019 and that the lift so purchased is being capitalized in the books of the company and depreciation as per the provisions of income Tax Act, 1961 is charged on the cost of lift less eligible credit of GST. The Applicant submitted that on parts, components, accessories which come into existence before the installation of the machinery the credit of taxes paid cannot be denied even if they become part of the immovable property after installation of the plant and machinery. It was further submitted that the lift was recorded in the books of accounts under separate heads as per Indian Accounting Standards (i.e. independent of building or civil structure) which is sufficient justification that the installation is distinct from the land and building.

The Authority held that the lift becomes part of the building and is not a separate thing per se. Therefore, the lift cannot be said to be separate from a Building. It further observed that a lift is not an item that is purchased an

sold. It is a customized mechanism for transportation, designed to suit a specific building. Upon piece by piece installation, it becomes an integral part of the building.

It further held that in the explanation relating to Plant and Machinery, under section 17(6) of the GST Act, while providing the meaning of the term plant and machinery, it has been clearly stated that Buildings and Civil Structures shall not be covered under the term Plant. However, while so clarifying, it has been accepted and understood that plant and machinery many a times requires support structure and / or foundation for installation and cannot work otherwise. Thus, civil structures and foundation as supporting structure for fastening of plant and machinery to earth has been included as part of plant and machinery. The Authority held that the lift has become part of the building and thus falls under the exclusion from plant and machinery and accordingly, credit was not allowed.

**17. Hence the additional amount charged on delayed payment shall be taxed as per original supply:- Andhra Pradesh AAR in Ushabala Chits Private Limited In AAR No.13/AP/GST/2020**

The Applicant is conducting chit auctions wherein they register members and conduct auction in respect of each chit each month. The member winning the auction collects the prize money from the company. The company will be collecting subscriptions from members by dividing the prize money with number of members. In case the subscribers fail to deposit subscriptions by the specified date, the Applicant is borrowing the money from banks by payment of interest and making payment to the prized subscribers. The Applicant charges interest/penalty by whatever name called, from the members paying the subscriptions belatedly and the interest is dependent upon the period of delay from specified date to actual date of payment.

The Authority held that the additional amount being charged on delayed payment termed as Interest, late fee or penalty on the amount delayed in specified time cannot be bifurcated as such additional payment do not have its own classification. It is taking colour from original supply i.e., supply of financial and related services. The additional amount being charged in delay of payment by whatever name called should be classified as principal supply and the classification of the same cannot differ from the original supply. Hence the additional amount charged on delayed payment shall be taxed as per original supply i.e. supply of financial and related services.

**18. HSD oil provided free of cost by service recipient forms part of the taxable value:- Andhra Pradesh AAR in Pulluri Mining & Logistics Private Limited in AAR No.11/AP/GST/2020**

The Applicant is a service provider rendering support services relating to mining. Listed heavy equipment & vehicles will be deployed for exclusive usage of this contract and shall not move out of the service recipient premises unless it is essential for performance of the contract. HSD oil required for operating the above heavy

equipment & vehicles will be under the scope of the service recipient and HSD oil is issued free of cost from service recipient's storage tank. The Application was filed on whether the HSD Oil issued free of cost by the service recipient to the Applicant would form part of value of supply of service by the Applicant.

The Applicant submitted that the value of HSD Oil need not be included in the value of supply and it need not pay GST on the value of HSD oil being supplied by the service recipient in relation to the said supply of service. It was submitted that the phrase 'any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply' appearing in Section 15(2)(b) of the GST Act should be understood as the "consideration" which has been included in the total price payable to the service provider, but for various reasons, which has been incurred by the recipient.

The Authority held that diesel so provided by the service recipient to the Applicant for use in the equipment and vehicles of the Applicant forms an important and integral component of this business process, without which the process of excavation of limestone at different mines, transportation and delivery of Limestone could not be undertaken. Accordingly, it was held that HSD oil provided free of cost will form part of the taxable value.

**19. Application for advance ruling not maintainable in case goods are not yet manufactured:-  
*Maharashtra AAR in Saint-Gobain India Private Limited in GST-ARA-51/2019-20/B-38***

The Maharashtra AAR has held that an application for advance ruling is not maintainable in a case where the goods are not yet manufactured but proposed to be manufactured. The Jurisdictional Officer in his comments mentioned that in absence of any goods being available, technical testing is not possible and thus it may not be possible to classify the same. The Authority agreed with the submissions of the jurisdictional officer. The Authority held section 97 read with section 100 states that questions raised should be in relation to goods for which supply is being undertaken or proposed to be undertaken. It is not the case that the manufacture of goods may be undertaken or proposed to be undertaken are covered. Accordingly, the application was rejected.

The ruling fails to appreciate that GST does not distinguish between supply or manufacture. The GST Act does not impose any such condition that goods must be in existence. Similar issues arose in respect of applications which involved place of supply however, the High Court ruled that place of supply being an integral part of taxability, the same is within the purview of the AAR.

**20. Hand sanitiser to attract GST at 18%:- Goa AAR in Springfields (India) Distilleries in  
*GOA/GAAR/1 of 2020-21/531***

The Goa AAR has held that hand sanitizers manufactured by the Applicant are of the category of Alcohol based hand sanitizers and are classifiable under heading 3808 of HSN to which rate of GST applicable is 18%. The

Authority rejected the claim that the same should be classified under HSN 30049087 and attract GST at 12%. The Authority further held that merely classifying any goods as essential commodities by the Ministry of Consumer Affairs, Food and Public Distribution will not be the criteria for exempting such Goods from GST.

### **21. Refund of GST to be granted without waiting for formation of GST Appellate Tribunal: Delhi High Court in Zones Corporate Solutions Pvt. Ltd. vs. Commissioner of Central Goods & Services Tax Delhi East &Anr. in W.P.(C) 3620/2020)**

The High Court of Delhi has held that the department cannot make a taxpayer wait endlessly for the Department to challenge an order sanctioning refund. The Competent Authority of the Department directed filing of an appeal before the Appellate Tribunal challenging the order in appeal passed by the Commissioner (Appeals) granting the refund. However, the order could not be challenged owing to non-functioning of the GST Appellate Tribunal. The Petitioner had obtained a favourable order in July 2019 however, no proceeding has been filed challenging the said order till date.

The Court directed the Department to refund the amount within four weeks and directed that it shall be open to the Department to take up appropriate proceedings in accordance with law.

### **22. Execution of repair and maintenance contracts through branch creates a fixed establishment in India (West Bengal AAR in Iz-Kartex named after PG Korobkov Ltd. in order no. 04/WBAAR/2020-21):**

The West Bengal AAR has held that a branch of foreign company would be considered as fixed establishment as per the GST Act. The AAR held that the applicant has entered into a long term contract spanning 17 years and is responsible for supply of the spares, components, and consumables over the entire period. The applicant will depute officers, support staff and system expert at the site for maintenance and repair of equipment and train the employees of the customer. Accordingly, the Authority held that the applicant maintains suitable structures in terms of human and technical resources at the sites. The applicant ensures supervision of the equipment, supply of spares and consumable and overheads for 5000 annual working hours for seventeen years, indicating sufficient degree of permanence to the human and technical resources employed at the sites. Accordingly, the applicant is a supplier within India and should discharge GST under forward charge.

The Karnataka AAR in T & D Electricals had held that a separate registration is not required for executing a project by a supplier based in Rajasthan. It would be interesting to see the law evolving around as to what degree of permanence is required for qualifying as a fixed establishment in India.

## REGULATORY

### **1. Ministry of Chemicals and Fertilizers released guidelines for the two incentive schemes:- *File No. 31026/19/2020 and 31026/54/2020-Policy, dated 27 July 2020***

Recently, the Ministry of Chemicals and Fertilizers released guidelines for the following two schemes:-

- i) Scheme for Promotion of Medical Devices Parks
- i) Production Linked Incentives Scheme for promoting the domestic manufacturing of medical devices

Salient features of the schemes are as follows:-

**i) Scheme for Promotion of Medical Devices Parks:** The scheme envisages creation of 3 bulk drug parks in the country. The grant-in-aid will be 90% of the project cost in case of North-East and hilly States and 70% in case of other States. Maximum grant-in-aid for one bulk drug park is limited to Rs.1000 crore.

a) The scheme is open for applications for a period of 120 days from the date of issuance of guidelines and the approval will be given to the selected applicants within 90 days from the closure of the application window. Applications will be received only through an online portal.

b) States will be selected through a challenge method. The States interested in setting up the parks will have to ensure assured 24\*7 supply of electricity and water to the bulk drug units located in the park and offer competitive land lease rates to bulk drug units in the park. The location of proposed park from environmental angle and logistics angle would be taken into account while selecting the States. The ease of doing business ranking of the state, incentive policies of the State applicable to the bulk drug industry, availability of technical manpower in the state, availability of pharmaceutical/chemical clusters in the state will also be factored in while selecting the States.

c) The interested States will be scored and ranked on an evaluation criteria. The States getting top 3 ranks will be selected. The States have to submit their proposal within 60 days of the date of issuance of the guidelines.

d) Selection of the state will be done and in-principle approval will be given to three selected States within 30 days of the last date of submission of proposals.

e) The 3 selected States will have to submit a Detailed Project Report (DPR) within 180 days of the in principle approval based on which final approval will be given. The grant will be released in four installments.



f) The selected States will have to complete the parks per the approved DPR within two years of the date of release of the first installment of grant-in-aid. It is envisaged to have a single window system in these parks for all regulatory approvals under one roof. The creation of a centre of excellence is also envisaged to enable an ecosystem for Research and Development.

**ii) Production Linked Incentive (PLI) scheme for promoting domestic manufacturing of Medical Devices:-** The scheme intends to boost domestic manufacturing of medical devices in four target segments by giving financial incentives on sales to a maximum number of 28 selected applicants for a period of 5 years. Financial incentive will be given at a rate of 5% of the sales of domestically manufactured medical devices. The incentives would be subject to annual ceilings communicated in the approval letter the incentives would be available from FY 2021-22. Four target segments are:-

I. Cancer care / Radiotherapy medical devices.

II. Radiology & Imaging medical devices (both ionizing & non-ionizing radiation products) and Nuclear Imaging devices.

III. Anesthetics & Cardio-Respiratory medical devices including catheters of Cardio Respiratory Category & Renal Care medical devices.

IV. All Implants including implantable electronic devices.

a) Any company registered in India and possessing a minimum net worth (including group companies) of Rs.18 crore (30% of threshold investment of first year) is eligible to apply for incentives under the scheme.

b) The applicant can apply for multiple products within one target segment as well as multiple target segments.

c) The selected applicants shall have to complete a threshold investment prescribed for each year and achieve a minimum prescribed sale for that year for them to be eligible to receive incentives.

d) The application window is 120 days from the date of issuance of guidelines and the approval thereafter to the selected applicants will be accorded within 60 days from the date of closure of application window.

e) The applications will be received only through an online portal.

## **2. Government would help in creating a conducive ecosystem for manufacturing and exporting electronic items:- *Press Release dated 14 July 2020***

Union Commerce and Industry Minister, Shri PiyushGoyal has said that his ministry was looking at identifying select electronic items that could be manufactured in India in large scale like television sets, Closed Circuit TVs, Air Conditioners etc, and exported in large quantities. Interacting with members of Electronics and Computer

Software Export Promotion Council (ESC) through a video conference today, the minister called on the industry to give specific suggestions regarding such products and the policy interventions that were required to make them competitive. The government would help in creating a conducive ecosystem for such products to be manufactured and exported.

He also emphasised the need for the government to come together to implement the National Mission on Quantum Technologies & Applications (NM-QTA), which is used for engineering solutions to extremely complex problems in computing, communications, sensing, chemistry, cryptography, imaging, and mechanics. The ministry has been coordinating with RBI to have quality and accurate data for the software and services exports from the country.

### **3. RBI extended the due date further for filing of Annual Return on Foreign Liabilities and Assets ('FLA') for FY 2019-20:**

Earlier RBI has extended the due date for filing of FLA return for FY 2019-20 to 31 July 2020. Due to technical glitches faced by the stakeholders from time to time, RBI has decided to further extend the due date till **14 August 2020**.

<https://flair.rbi.org.in/fla/>

### **4. Central Government made amendments to the Foreign Direct Investment (FDI) policy:- Notification no. S.O. 2442 (E) dated 27 July 2020**

Central Govt. has recently made changes to the FDI norms primarily in Civil aviation vide Foreign Exchange Management (Non-debt Instruments)(Third Amendment) Rules, 2020. Following are the key amendments:

- a) The notification permits non-resident Indian nationals to own 100% stake in Air India under the automatic route.
- b) 100% FDI under automatic route in helicopter services which require Directorate General of Civil Aviation (DGCA) approval.
- c) Foreign airlines are permitted to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services up to the limit of 49% of their paid-up capital, subject to certain conditions that inflow must be made under the government approval route and the 49% limit will subsume FDI and FII/FPI investment.
- d) FDI in Civil Aviation shall be subject to provisions of the Aircraft Rules, 1937,

Also, the investments made shall comply with the relevant regulations of the Securities and Exchange Board of India (SEBI) and other conditions mentioned in the notification.

#### **5. 26% FDI limit should apply to news aggregators - Amit Khare, the Secretary of the Ministry of Information & Broadcasting:- News Report**

Recently in an interview, Amit Khare, the Secretary of the Ministry of Information & Broadcasting, said that foreign direct investment rules applicable to print media should also apply to news aggregators. Aggregators, like Inshorts and Dailyhunt, are apps or websites that curate their content from other publishers, and some use algorithms to personalise content for readers. As per him, a level playing field should be there between digital platforms and print media. Last August, the government capped the FDI that digital media in India could receive to 26%. Previously, since there was no guidance, investment was not capped. Even now, the government has not offered any clarity on exactly what comes under digital media and what does not.

[https://www.medianama.com/2020/07/223-news-aggregators-amit-khare-fdi/?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+medianama+%28Medianama%3A+Digital+Media+In+India%29](https://www.medianama.com/2020/07/223-news-aggregators-amit-khare-fdi/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+medianama+%28Medianama%3A+Digital+Media+In+India%29)

#### **6. Extension of timeline for finalization of audited accounts by RBI:- Dated 06 July 2020**

RBI has extended the timelines for finalization of audited accounts of certain NBFC's and the said NBFC's shall finalise its balance sheet within a period of 3 months from the date to which it pertains or any date as notified by SEBI for submission of financial results by listed entities.

#### **7. RBI on Treatment of Unrealised gain/loss on a derivative transaction:- RBI/2020-21/15 DOR (NBFC).CC.PD.No.116/22.10.106/2020-21**

RBI vide the above Circular referred to paragraph 3 of the Annexure to the circular DOR (NBFC).CC.PD.No.109/22.10.106/2019-20 dated March 13, 2020, on the captioned subject, in terms of which any net unrealised gains arising on fair valuation of financial instruments, should not be included in owned funds whereas all such net losses should be considered.

On a review, RBI has now decided that the unrealised gain/loss on a derivative transaction undertaken for hedging may be offset against the unrealised loss/gain recognized in the capital (either through Profit or Loss or through Other Comprehensive Income) on the corresponding underlying hedged instrument. If after such offset and netting with unrealised gains/losses on other financial instruments, there are still net unrealised gains, the same should be excluded from regulatory capital as required by paragraph 3 of the annex to the said circular. It

is also clarified that unrealized gains/losses shall be considered net of the effect of taxation. All other instructions remain unchanged.

#### **8. Ministry of Corporate Affairs has amended the Companies (Indian Accounting Standards) Rules, 2015:- Notification dated 24 July 2020**

Recently Ministry of Corporate Affairs introduced Companies (Indian Accounting Standards) Amendment Rules, 2020 making certain amendments to the existing Companies (Indian Accounting Standards) Rules, 2015. Under the amended rules, amendment have been to the following key IND AS:-

- a) Ind AS 107 related to Financial Instruments: Disclosures
- b) Ind AS 109 related to Financial Instruments
- c) Ind AS 116 related to Leases
- d) Ind AS 8 related to Operating Segments
- e) Ind AS 10 related to Events after the Reporting Period

#### **9. Further extension of Work from Home relaxations to Other Service Providers due to Covid-19 pandemic:- Order No. 18-5/2015-CS (Pt.) Dated 21 July 2020**

Recently, the Department of Telecommunication (DOT) vide its Order dated 21 July 2020 has extended the work from home facility and other administrative relaxations for the IT, ITes companies and the Other Service Providers (OSP) till 31 December 2020. The department had earlier extended the above relaxations till 31 July, however, considering the situation, the DOT considered it necessary to extend such facility till the year end. Any non-compliance in the reporting of each work from home agent to DOT attracts a penalty of INR 5 lakhs per agent.

#### **10. Clarification by Commerce minister that the ministry is working for early resolution of funding constraints for issuance of scrips under Merchandise Export from India Scheme (MEIS):- Press Release dated 30 July 2020**

Commerce and Industry Minister, Mr. PiyushGoyal inaugurated CII National Digital conference on 30 July 2020 emphasizing on simplifying and easing the policy for Doing Business for Atmanirbhar Bharat. Speaking on the current trade situation, he said India's exports are almost 88% of the last year's level while imports are almost 75% of the same period last year and the business is bouncing back. Further in relation to the funding issue that industry is facing under the MEIS scheme, the minister said that authorities are looking for an early resolution so that it does impact the trade of the country. He clarified that MEIS is not going anywhere and it is just a cash flow issue.

As far as the other areas of economy are concerned, the ministry has already identified 20 industrial sectors that need finance and a genuine support from the government. The ministry is in touch with 16 States and UTs and have been working in coordination with them to make flexible labour laws to help the industry. Also, he mentioned that the Central government is planning a soft launch of the land bank available with States and will create a land bank portal for which Six States have already shared the data for this.

### **11. DGFT has issued Trade Notice in relation to issuance of Certificate of Origin (CoO) for India's exports to Thailand under ASEAN-India FTA:- Trade Notice No. 23/2020-2021-DGFT**

DGFT has prescribed that w.e.f. 01.08.2020, the CoO applications for exports from India to Thailand under ASEAN-India FTA should be submitted through the e-COO Platform by the exporters to the designated issuing agencies i.e. EIA, MPEDA and Textile Committee. No physical/manual application for a CoO would need to be submitted from this date. However, manual applications submitted prior to the given date may be processed and CoOs issued by the designated agencies.

In line with the CoOs issued for other ASEAN Countries, the e-CoO platform will generate one additional copy i.e. electronic copy along with the set of 4 copies. The electronic copy shall bear the image signature of the officer and stamp of the issuing agency. The exporter may however get the set of printed certificates (in quadruplicate) duly ink-signed by the officer along with the stamp from the designated issuing office, by post or in person, for submission to the Thai authorities.

### **12. DGFT amends MEIS Schedule for exports made WEF 01.01.2020:- Public Notice No. 12/2015-2020**

Certain additions/amendments have been made in the MEIS Schedule which is Appendix 3B, Table 2 to harmonize it with the Notification no. 38 dated 01.01.2020 and the changes in the Finance (No. 2) Act, 2019, Fifth Schedule as notified by CBIC.

<https://dgft.gov.in/sites/default/files/PN-12%20dt-10-07-2020%28E%29.pdf>

### **13. Government invites objections and suggestions on draft Code on Wages Central Rules, 2020:- Notification dated 07 July 2020**

You are aware that the Government has consolidated four labour laws (Payment of Wages Act, Minimum Wages Act, Payment of Bonus Act and Equal Remuneration Act) vide Code on Wages, 2019. Now, the Ministry of Labour and Employment has issued Draft rules for Code on Wages, 2019 on 7 July 2020. The rules are in suppression of the various rules under multiple labour laws such as Payment of Wages (Procedure) Rules, Minimum Wages (Central) Rules, Payment of Bonus Rules, Equal Remuneration Rules. These rules provide norms or conditions on the following key aspects covered under the Code on Wages, 2019:

- i) Mechanism to fix the Minimum wages by state governments basis the criteria such as Geographical area, Skills etc.
  
- ii) Number of hours that will constitute normal working day of employees (eight hours of work plus one hour of interval). The working day of an employee inclusive of the intervals of rest, if any, shall not spread over more than 12 hours on any day. Overtime rate shall not be less than twice the normal rate of wages.
  
- iii) An employee shall be allowed a day of rest every week which shall ordinarily be Sunday, but the employer may fix any other day of the week as the rest day for any employee or class of employees. Any employee shall not be required to work on the rest day unless he has a substituted rest day in the prescribed manner.
  
- iv) Deductions from employees' wages on account of (i) fines; (ii) absence from duty; (iii) damages to goods, loss of goods or for loss of money; (iv) recovery of advance; or (v) recovery of loans. Section 18(3) of the Code on Wages provides that the total amount of deductions which may be made in any wage period from the wages of an employee shall not exceed 50% of such wages. The draft Rules provide that where the total deductions authorized under Section 18(2) of the Code on Wages exceed 50% of the wages of an employee, the excess shall be carried forward and recovered from the wages of succeeding wage period or wage periods, as the case may be, in such installments so that the recovery in any month shall not exceed the 50% of the wages of the employee in that month and with certain conditions.
  
- v) Where any amount payable to an employee under the Code on Wages is due after death or on account of his / her whereabouts not being known, and the amount could not be paid to the nominee within 3 months from the date the amount had become payable, then, such amount shall be deposited by the employer with the Deputy Chief Labour Commissioner (central) having jurisdiction.
  
- vi) Format of employees register that need to be maintained by the employer in Form I and IV. Also, wage slips to the employees to be issued in a format specified in Form V.
  
- vii) Where the employees are employed through a contractor, then, the establishment shall pay to the amount payable to the contractor before the date of payment of wages so that payment of wages to the employees is made positively in accordance with the timelines prescribed under Section 17 of the Code on Wages.
  
- viii) Where the employees are employed through a contractor and the contractor fails to pay minimum bonus to such employees, then, the establishment shall be liable to pay such minimum bonus to the employees.

ix) As per the Code on Wages, an inspection scheme will be laid down for web-based inspection and calling of information electronically. The draft Rules allow the Chief Labour Commissioner (central) to formulate the said inspection scheme with the approval of the central government.

x) Section 53 of the Code on Wages provides that for the purpose of imposing penalty under Section 54, the appropriate government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the state government, for holding enquiry in such manner, as may be prescribed by the central government. The draft Rules provide the manner of holding such enquiry and the officer appointed is required to provide opportunity of defence to the accused. .

The ministry has invited public comments regarding the objectives and the suggestions on the above draft rules. Objections and suggestions if any, may be sent to Shri M. A. Khan, Deputy Director ([ma.khan15@nic.in](mailto:ma.khan15@nic.in)), and Smt. Rachana Bolimera, Assistant Director ([r.bolimera@nic.in](mailto:r.bolimera@nic.in)). Last date for submission of the same is 21 August 2020 i.e. 45 days from the date of notification.

Considering the significant changes, organizations would have to analyse the same in detail to ensure they are compliant to the code.

#### **14. Ministry of Skill Development and Entrepreneurship launches AI based ASEEM digital platform to bridge demand-supply gap of skilled workforce across sectors for blue collar employee management:- Press Release dated 10 July 2020**

In an endeavour to improve the information flow and bridge the demand-supply gap in the skilled workforce market, the Ministry of Skill Development and Entrepreneurship (MSDE) launched 'Aatamanirbhar Skilled Employee Employer Mapping (ASEEM)' portal to help skilled people find sustainable livelihood opportunities. Apart from recruiting a skilled workforce that spurs business competitiveness and economic growth, the Artificial Intelligence based platform has been envisioned to strengthen their career pathways by handholding them through their journeys to attain industry-relevant skills and explore emerging job opportunities especially in the post COVID era. Besides identifying major skills gap in the sectors and providing review of global best practices, ASEEM will provide employers a platform to assess the availability of skilled workforce and formulate their hiring plans. Aatamanirbhar Skilled Employee Employer Mapping (ASEEM) refers to all the data, trends and analytics which describe the workforce market and map demand of skilled workforce to supply.

The initiative aims to accelerate India's journey towards recovery by mapping skilled workforce and connecting them with relevant livelihood opportunities in their local communities especially in the post Covid era. "The launch of ASEEM is the first step on that journey. I am confident that the real-time information ASEEM

provides to both employer and employee will add value to the labour ecosystem and contribute to building the trust among the workforce, which is essential for the recovery of the economy". Shri AM Naik, Chairman, NSDC and Group Chairman, Larsen & Toubro Limited said.

ASEEM portal aims at supporting decision and policymaking via trends and analytics generated by the system for programmatic purposes. ASEEM shall help in providing real-time data analytics to NSDC and its Sector Skill Councils about the demand and supply patterns including - industry requirements, skill gap analysis, demand per district/ state/cluster, key workforce suppliers, key consumers, migration patterns and multiple potential career prospects for candidates. Through ASEEM, employers, agencies and job aggregators looking for skilled workforce in specific sectors will also have the required details at their fingertips. It will also enable policymakers take more objective view of various sectors.

The portal consists of three IT based interfaces -

- i) Employer Portal – Employer onboarding, Demand Aggregation, candidate selection
- ii) Dashboard – Reports, Trends, analytics, and highlight gaps
- iii) Candidate Application – Create & Track candidate profile, share job suggestion

### **15. Government notified Consumer Protection (E-Commerce) Rules, 2020:- Notification G.S.R 462(E), dated 23 July 2020**

Recently, Ministry of Consumer Affairs notified the much awaited Consumer Protection (E-Commerce) Rules, 2020. Some of the key extracts are as under:-

- These rules shall apply to:

- (a) all goods and services bought or sold over digital or electronic network including digital products;
- (b) all models of e-commerce, including marketplace and inventory models of e-commerce;**
- (c) all e-commerce retail, including multi-channel single brand retailers and single brand retailers in single or multiple formats; and
- (d) all forms of unfair trade practices across all models of e-commerce:

These rules shall also apply to a e-commerce entity which is not established in India, but systematically offers goods or services to consumers in India.



- “e-commerce entity” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a marketplace e-commerce entity;
- “platform” means an online interface in the form of any software including a website or a part thereof and applications including mobile applications;
- There are eleven Duties specified for e-commerce entities including the duty to appoint a nodal person of contact or an alternate senior designated functionary who is resident in India, to ensure compliance with the provisions of the Act or the rules made thereunder.
- There are six liabilities specified for marketplace e-commerce entities, six duties for sellers on marketplace, five duties for inventory e-commerce entities.

**16. Report on Non-Personal Data Framework released by MEITY's Committee of Experts for public consultation:- *Draft report released on 12 July 2020***

The Committee of Experts on Non-Personal Data Governance Framework has recommended that a separate legislation be formulated to govern non-personal data, and a new regulatory body, while also addressing a long standing question: what exactly is Non-Personal Data?

In its draft report, released on July 12, 2020, the committee has defined non-personal data as any data that is not related to an identified or identifiable natural person, or is personal data that has been anonymised. It has said that Non-Personal Data (NPD) should be regulated by a new regulatory body, the Non-Personal Data Authority (NPDA). This data, the committee recommends, should be further classified into three categories — public NPD, community NPD, and private NPD.

The report identifies and defines new stakeholders in the non-personal data ecosystem, including data principal, data custodian, data trustee, and data trust, and contours their obligations and mechanisms to enable data sharing. It has also sets circumstances under which a private organisation, that collects non-personal data, needs to be remunerated.

Anyone can submit comments on the same till August 13, 2020, 11:45pm, via the MyGov platform.

To submit comments, users have to declare that “The feedbacks submitted here will be kept confidential, no public disclosure will be made at any stage [sic]”.

[https://static.mygov.in/rest/s3fs-public/mygov\\_159453381955063671.pdf](https://static.mygov.in/rest/s3fs-public/mygov_159453381955063671.pdf)

## **17. Union Cabinet has approved National Education Policy 2020:- Press Release dated 29 July 2020**

The Union cabinet chaired by the Prime minister, Mr. Narendra Modi recently approved the New education policy 2020. National Education Policy 2020 (NEP) revolutionary changes in the current education system. The new policy aims to pave way for transformational reforms in school and higher education systems in the country.

Some of the key highlights in the reforms in the **School Education** are as follows:-

- a) New Policy aims for universalization of education from pre-school to secondary level with 100 % Gross Enrolment Ratio (GER) in school education by 2030.
- b) Emphasis on Foundational Literacy and Numeracy, no rigid separation between academic streams, extracurricular, vocational streams in schools ; Vocational Education to start from Class 6 with Internships.
- c) Teaching up to at least Grade 5 to be in mother tongue/ regional language. No language will be imposed on any student.
- d) A new and comprehensive National Curriculum Framework for Teacher Education, NCFTE 2021, will be formulated by the NCTE in consultation with NCERT.
- e) The current 10+2 system to be replaced by a new 5+3+3+4 curricular structure corresponding to ages 3-8, 8-11, 11-14, and 14-18 years respectively. The new system will have 12 years of schooling with three years of Anganwadi/ pre schooling.
- f) Assessment reforms with 360 degree Holistic Progress Card, tracking Student Progress for achieving Learning Outcomes.

Some of the key highlights in the reforms in the **Higher Education** are as follows:-

- a) Gross Enrolment Ratio in higher education to be raised to 50% by 2035. 3.5 crore seats to be added in higher education.
- b) Under Graduation education can be now for 3 or 4 years with multiple exit options and appropriate certification within this period.
- c) Academic Bank of Credits to be established to facilitate Transfer of Credits.
- d) Multidisciplinary Education and Research Universities (MERUs), at par with IITs, IIMs, to be set up as models of best multidisciplinary education of global standards in the country.
- e) The National Research Foundation will be created as an apex body for fostering a strong research culture and building research capacity across higher education.

Others:

- a) Affiliation of colleges is to be phased out in 15 years and a stage-wise mechanism is to be established for granting graded autonomy to colleges. Over a period of time, it is envisaged that every college would develop into either an Autonomous degree-granting College, or a constituent college of a university.
- b) An autonomous body, the National Educational Technology Forum (NETF), will be created to provide a platform for the free exchange of ideas on the use of technology to enhance learning, assessment, planning, administration.
- c) The Centre and the States will work together to increase the public investment in the Education sector to reach 6% of GDP at the earliest. This policy will replace the 34 year old National Policy on Education (NPE),1986.

### **18. Ministry of Health and Family Welfare issued revised Guidelines for international arrivals (to be operational from 8th August 2020):-**

Some of the key points are as under:

- All travellers should submit self-declaration form on the online portal ([www.newdelhairport.in](http://www.newdelhairport.in)) at least 72 hours before the scheduled travel.
- At the time of boarding the flight/ ship, only asymptomatic travellers will be allowed to board after thermal screening.
- The passengers found to be symptomatic during screening on arrival shall be immediately isolated and taken to medical facility as per health protocol.
- The remaining passengers shall be taken to suitable institutional quarantine facilities, to be arranged by the respective State/ UT Governments. These passengers shall be kept under institutional quarantine for a minimum period of 7 days.
- States can develop their own protocol with regards to quarantine and isolation as per their assessment post arrival of passengers in the state concerned.

### **19. IRDAI notified regulation for Insurance intermediaries to operate in SEZ's:- Notification No. G.S.R. 479(E), dated 30 July 2020**

Central Government has amended the Insurance Regulatory and Development Authority of India (Regulation of Insurance Business in Special Economic Zone) Rules, 2015 for the purpose of regulating and promoting the insurance business in Special Economic Zones.

Accordingly, IRDAI can permit an intermediary or insurance intermediary registered with it or an intermediary or insurance intermediary from outside the country, to transact business as an intermediary or insurance intermediary in the Special Economic Zones subject to certain conditions.

## **20. Mandatory Testing & Certification of Telecommunications Equipment w.e.f 01.10.2020:- *Instruction No. 15 /2020***

Telecommunication Engineering Centre has notified that testing and certification for telecommunications equipment under phase-II of Mandatory Testing and Certification of Telecommunications Equipment (MTCTE) regime as provisioned in India Telegraph (Amendment) Rules 2017, shall be mandatory w.e.f. 1st Oct 2020 for the following:

- i. Transmission Terminal Equipment (SDH Equipment, Multiplexing Equipment).
- ii. PON family of Broadband Equipment (PON ONT, PON ONU and PON OLT)
- iii. Feedback Device

## **21. Companies can now exit insolvency midway if they arrive at the settlement:- NCLAT *Judgement in the case of Bruda Druck India Pvt. Ltd.***

In a recent judgment, NCLAT held that a company could exit an ongoing insolvency process even as an interim resolution professional had been appointed. It helps in smoothing the way for companies to settle claims and end ongoing insolvency cases. In the recent Judgement, it was observed that that since the operational creditor (who had taken the company to NCLT) and the corporate debtor had settled the dispute, it allowed the parties to exit. This may now help other companies who are have on going cases to settle the due with creditor at relatively smaller debts.

## **22. Extension of due date for filing of financial results for the quarter/half year/ financial year ended on 30 June 2020:- Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/140 dated 29 July 2020**

As per the Regulation 33 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations'), every listed entity is required to submit its quarterly/half year financial results within 45 days from the end of each quarter. Accordingly, listed entities are required to submit the financial results for the quarter/half year ended 30 June 2020, on or before 14 August 2020.

Recently, SEBI vide its circular dated 29 July 2020 has extended the due date for filing of the results for quarter ended 30 June 2020 and the financial year ended 31 March 2020 till **15 September 2020**.

### **23. Extension of SEBI relaxations relating to procedural matters on Takeovers and Buy-back:- *Circular No. SEBI/HO/CFD/DCR2/CIR/P/2020/139 dated 27 July 2020***

SEBI vide its Circular no SEBI/CIR/CFD/DCR1/CIR/P/2020/83 dated 14 May 2020 has decided to provide one time relaxations from strict enforcement of certain regulations of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Buy-back of securities) Regulations, 2018 pertaining to open offers and buy-back tender offers which are open as on 31 July 2020.

Based on the representations received from the market participants, SEBI vide its circular dated 27 July 2020 has extended the validity of relaxations as provided by the above circular and such relaxations shall be applicable for open offers and buy-back through tender offers opening upto 31 December 2020.

### **24. Introduction of Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2020:-**

SEBI vide notification dated 17th July 2020 made certain changes in the existing regulations to prohibit the Insider Trading. The amendments include providing for maintaining a structured digital database containing nature of unpublished price-sensitive information (UPSI), the names of persons who have shared the information, automation of the process of filing disclosures to stock exchanges, and restriction on trading window. Further under the new regulations, entities would have to file the non-compliance of code of conduct with the stock exchanges, and the amounts if any collected for such non-compliances would be credited to the Investor Protection Education Fund administered by SEBI.

### **25. Relaxation from compliance with provisions of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (“ILDS Regulation”), SEBI (Non-Convertible Redeemable Preference Shares) Regulations, 2013 (“NCRPS Regulations”) and SEBI Circulars relating to Listing of Commercial Papers:- *Circular No. SEBI/HO/DDHS/CIR/P/2020/121 dated 15 July 2020***

Under the ILDS Regulations, NCRPS Regulations and circulars related to Listing of Commercial Papers (CPs), an Issuer needs to submit its latest audited financials which should not be older than six months. Compliant listed entities are however permitted to use unaudited financials with limited review in lieu of the audited financials for such period subject to these unaudited financials not being older than six months. On account of COVID pandemic, SEBI vide circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/106 dated 24 June 2020 extended the timelines for submission of financial results for the quarter/half year/annual financial year for the period ending 31 March 2020 till 31 July 2020.

After receiving a lot of representations from the industry, SEBI vide its circular dated 15 July 2020 has decided to permit listed Issuers who have issued Non-Convertible Debentures (NCDs) / Non-Convertible Redeemable Preference Shares (NCRPS)/ Commercial Paper(s) (CPs) on or after 01 July 2020 and intend/propose to list such issued NCDs/NCRPS/CPs on or before 31 July 2020, to use available financials as on 31 December 2019.

**26. Manner and mechanism of providing exit option to dissenting unit holders pursuant to SEBI Real Estate Investment Trusts Regulations, 2014 (“SEBI (REIT) Regulations”) and SEBI Infrastructure Investment Trusts Regulations, 2014 (“SEBI (InvIT) Regulations”):- Circular No SEBI/HO/DDHS/DDHS/CIR/P/2020/122 and SEBI/HO/DDHS/DDHS/CIR/P/2020/123 dated 17 July 2020**

The above regulations provide for exit option to be given to dissenting unit holders. As per the guidelines, the acquirer providing exit option to dissenting unit holders shall appoint one or more merchant bankers registered with the Board as lead manager(s) for the exit option/offer, who shall ensure compliance with the provisions of the respective Regulations and this circular. Thereafter, the appointed lead manager shall send the Letter of Offer (LoF) to all dissenting unit holders and shall also file the same along with the due diligence certificate as per the format specified in Form A in Annexure-I of SEBI circular no. CIR/IMD/DF/55/2016 dated 11 May 2016, with the Exchange(s).

The detailed guidelines have been provided in Annexure - I of the respective circular.

**27. Relaxation from compliance with certain provisions of the SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015 (ILDM Regulations) and certain SEBI Circulars due to the CoVID -19 virus pandemic:- Circular No. SEBI/HO/DDHS/CIR/P/2020/41 dated March 23, 2020**

SEBI vide its circular dated 23 March 2020 has extended the timelines for certain requirements for issuers of Municipal Debt Securities. Now, the timeline under clause 7 of the above circular dealing with investor grievance report, financial results and Accounts maintained by issuers under ILDM Regulations has been now further extended to 31 July 2020.

**28. Amendment to Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015:- Circular No. SEBI/HO/IFSC/CIR/P/2020/117 dated 09 July 2020**

SEBI vide its notification dated 09 July 2020 amends the eligibility and shareholding limit for stock exchanges desirous of operating in IFSC. As per the existing regulation, any Indian recognized stock exchange or any stock exchange of a foreign jurisdiction may form a subsidiary to provide the services of stock exchange in IFSC

wherein at least 51% of paid up equity share capital is held by such stock exchange and remaining offered to any other recognised stock exchange. Now as per the revised guidelines, the remaining share capital can be offered to any other person (whether Indian or of foreign jurisdiction) provided such other person shall not at any time directly or indirectly either individually or together with persons acting in concert acquire or hold more than 5% of the paid up equity share capital in a recognised stock exchange in IFSC.

### **29. Amendment to the Guidelines for Issue and Listing of Structured Products/ Market Linked Debentures:- Circular No. SEBI/HO/DDHS/CIR/P/2020/120 dated 13 July 2020**

SEBI vide circular no. CIR/IMD/DF/17/2011 dated 28 September 2011 issued the guidelines for the issue and listing of structured products/ Market linked Debentures (MLDs). Para 4(f)(i) of the circular, specifies that issuer of MLDs shall appoint a third party valuation agency which shall be a Credit Rating Agency (CRA) registered with SEBI for carrying out valuation of MLDs however pursuant to amendment to SEBI (Credit Rating Agencies) Regulation, 1999 on 30 May 2018, a CRA cannot carry out any activity other than rating of securities post 30 May 2020.

Thus, SEBI vide its circular dated 13 July 2020 has notified that the valuation of MLDs shall be carried out by an agency appointed by Association of Mutual Funds in India (AMFI) for the purpose of carrying out valuation.

### **30. Finance Minister had review meeting on Capital Expenditure (CAPEX) of 23 Central Public Sector Enterprises (CPSEs):- Press Release dated 07 July 2020**

Finance Minister Smt. Nirmala Sitharaman recently had a meeting with the Secretaries of Ministries of Petroleum & Natural Gas, Power, Coal, Mines and D/o Atomic Energy and the CMDs of 23 CPSEs belonging to these Ministries. The motive of the meeting was to convey and ensure that the objective of capital outlay provided to these ministries for the financial year 2020-21 should be met properly and within time. The Finance Minister said that CPSEs have a very important role in giving a push to the growth of the Indian economy. The Finance Minister asked the Secretaries to closely monitor the performance of CPSEs in order to ensure that capital expenditure to the tune of 50% of capital outlay by Q2 2020-21. The ministries also discussed the constraints being faced by them due to COVID 19 with the FM such as problems of availability of manpower, delay in imports, delay in payments etc.

### **31. Government to announce Standard Operating Procedures (SOPs) for resumption of film production:- Press Release dated 07 July 2020**

The Ministry of Information & Broadcasting issued a press release that the Government will soon issue Standard Operating Procedures to speed up resumption of film production in the unlock phase. Union Minister

for Information & Broadcasting Prakash Javadekar said that to accelerate the restart of film-making that had come to a standstill as a result of COVID, the government is also coming up with incentives of production in all sectors, including TV serials, film-making, co-production, animation, gaming.

### **32. IT firms approach government to allow certain work from home relaxations to continue on permanent basis:- News Report**

IT companies have approached the information technology ministry to allow certain relaxations on work from home (WFH) to continue on a permanent basis, as the industry moves towards a blended working model in the post-COVID-19 era. STPI had issued a notification on March 11 enabling work-from-home provisions for STP-registered units on a temporary basis. NASSCOM in its letter to STPI said allowing these relaxations on a permanent basis will help "companies plan their operations from a long-term perspective and undertake flexi policies to provide WFH to their employees based on their requirements".

<https://www.cnbctv18.com/india/it-firms-approach-govt-to-allow-certain-work-from-home-relaxations-to-continue-on-permanent-basis-6281761.htm>

### **33. Gujarat International Finance Tec-City SEZ provides approval to 28 entities:- News Report**

Around 28 entities got the approval for setting up units in the GIFT City's SEZ virtually, as part of a new approval process that was created for unit approval in the special economic zone (SEZ) in time of Covid-19. Under the new process the Development Commissioner of GIFT SEZ along with GIFT SEZ authorities met up with all the members of the unit approval committee via teleconference. All the application documents and the details were submitted online by the units with the entire agenda prepared and circulated online to all the committee members.

[https://economictimes.indiatimes.com/news/economy/infrastructure/gift-sez-provides-approval-to-28-entities/articleshow/76822108.cms?action=profile\\_completion&&em=Z2FyZy5yYWh1bEBhc2lyZS5pbG==](https://economictimes.indiatimes.com/news/economy/infrastructure/gift-sez-provides-approval-to-28-entities/articleshow/76822108.cms?action=profile_completion&&em=Z2FyZy5yYWh1bEBhc2lyZS5pbG==)

### **34. US has agreed to discuss with India on the issue of levy of Social security tax on Indian professionals employed in America:- News Report**

This is in continuation to the issue raised by Prime Minister Narendra Modi who brought up this issue in February this year during President Donald Trump's India visit and requested for a resolution through a Totalisation Agreement. The US has now agreed to discuss with India on the issue of levy of social security tax



on Indian professionals working in America. According to an industry estimate, on the Indians working in the US forfeit almost \$1 billion annually in social security tax. Indian workers, particularly information technology (IT) professionals, make social security contributions in the US when they work there, but most of them come back home before they are eligible to withdraw money from their social security contributions. An agreement on this issue would be a big relief to save them from the financial loss.

<https://www.hindustantimes.com/india-news/us-open-to-talks-on-security-tax-burden-on-indian-professionals/story-YDg71LU3Beo9d29pFUVAsL.html>

### **35. Govt's booster dose for Indian pharma industry to become self-reliant; 3 mega bulk drug parks likely soon:- News report**

Taking cues from Prime Minister Narendra Modi's Atmanirbhar Bharat campaign, the Ministry of Chemicals and Fertilizers announced a production linked incentive (PLI) scheme for the promotion and manufacturing of pharmaceutical raw materials in India. The government's move is aimed to boost domestic manufacturing and cut dependence on imports of critical Active Pharmaceutical Ingredients (APIs). Further, the government has also decided to develop three mega bulk drug parks in partnership with states which will likely appeal more to the smaller players and should foster more investments.

[https://www.financialexpress.com/economy/govts-booster-dose-for-indian-pharma-industry-to-become-self-reliant-3-mega-bulk-drug-parks-likely-soon/2032785/?utm\\_source=newzmate&utm\\_medium=email&utm\\_campaign=femain&tqid=hfqtYmE9GokBFDVs6KeE9ii6vID6sfYnfpsXgBinsw](https://www.financialexpress.com/economy/govts-booster-dose-for-indian-pharma-industry-to-become-self-reliant-3-mega-bulk-drug-parks-likely-soon/2032785/?utm_source=newzmate&utm_medium=email&utm_campaign=femain&tqid=hfqtYmE9GokBFDVs6KeE9ii6vID6sfYnfpsXgBinsw)

### **36. India, UK agree to begin talks for limited trade deal:- News report**

As per a news report, India and the UK are looking at an early harvest scheme or a limited trade agreement to lower tariffs on a small set of goods apart from easing rules for select services in what is seen as a preparation for a free trade agreement.

[https://timesofindia.indiatimes.com/business/india-business/india-uk-agree-to-begin-talks-for-limited-trade-deal/articleshow/77156759.cms?action=profile\\_completion&&em=Z2FyZy5yYWh1bEBhc2lyZS5pbG==](https://timesofindia.indiatimes.com/business/india-business/india-uk-agree-to-begin-talks-for-limited-trade-deal/articleshow/77156759.cms?action=profile_completion&&em=Z2FyZy5yYWh1bEBhc2lyZS5pbG==)

### **37. India-US Free Trade Agreement (FTA) on the cards preceded by limited trade deal, informs Commerce Ministry:- News Report**

India and the US are close to concluding an initial limited trade package followed by a possible bilateral free trade agreement (FTA) as per the news reports.

“There was a desire expressed to conclude this initial limited trade package and recognising the complementarities of the India-USA bilateral trade, discussed the possibility of an FTA,” the commerce and industry ministry said in a release on Thursday, after an informal discussion between commerce and industry minister PiyushGoyal and US secretary of commerce Wilbur Ross.

<https://economictimes.indiatimes.com/news/economy/foreign-trade/india-us-fta-on-the-cards-preceded-by-limited-trade-deal-informs-commerce-ministry/articleshow/77004512.cms>

### **38. Finance Minister holds 2nd review meeting on Capital Expenditure (CAPEX) of 7 Central Public Sector Enterprises (CPSEs) :- Press Release dated 23 July 2020**

The second review meeting on the CAPEX of CCPSEs was held on 23 July 2020 through the Video Conference with many other officials to check the ongoing plan of the government for the economy acceleration to fight the current slowdown amid COVID 19 pandemic. The target expenditure of these 7 CPSEs for the current financial year 2020-21 is INR. 24,663 crore out of which INR. 3,557 crore i.e. around 14% of the target have been achieved in the Q1 of the FY 2020-21.

Finance Minister emphasised the role of these sectors in the revival of economy and better performance of CPSEs can help the economy in a big way to recover from the impact of COVID-19. The minister encouraged the CPSEs to perform better to achieve their targets and to ensure that the capital outlay provided to them for the financial year 2020-21 is spent properly and within time.

### **39. World Bank and Government of India sign \$750 million Agreement for Emergency Response Programme for Micro, Small, and Medium Enterprises:- Press Release dated 06 July 2020**

World Bank and Government of India has signed a \$750 million Agreement for increased flow of finance to MSMEs. Key highlights of the agreement are as follows:

- i) It will address the immediate liquidity and credit needs of some 1.5 mn MSMEs
- ii) This will support the government in providing targeted guarantees to incentivize NBFCs and banks to fund MSMEs to help sustain them through the crisis.
- iii) Improving the funding capacity of NBFC and Small Finance Bank (SFBs).
- iv) The program will incentivize the use of digital financial services in MSME lending and payments.

The World Bank has to date committed \$2.75 billion to support India’s emergency COVID-19 response, including the new MSME project.

#### **40. India in advanced talks to store oil in US strategic petroleum reserve:- News Report**

In an important development under the Oil & Gas sector, Oil Minister Dharmendra Pradhan while attending the second meeting of the India-US strategic energy partnership said that India is in advanced talks to store crude oil in US strategic petroleum reserves while Indian companies are expected to sign more long-term deals for US oil or LNG. Bilateral hydrocarbon trade had already risen to \$9.2 billion, which is 10% of total trade between the two countries. We have signed a Memorandum of Understanding to begin cooperation on Strategic Petroleum Reserves. We are also in an advanced stage of discussions for storing crude oil in the U.S. Strategic Petroleum Reserve to increase India's strategic oil stockpile," minister said in his address at the meeting.

<https://economictimes.indiatimes.com/industry/energy/oil-gas/us-india-deepen-energy-ties-begin-collaboration-on-strategic-petroleum-reserves/articleshow/77023470.cms>

#### **41. Bangladesh bans zero rating of social media, ending free basics in the country:- News Report**

As per a news report, The Bangladesh Telecommunications Regulatory Commission (BTRC) recently prohibited zero-rating of social media websites. BTRC in its order said that providing social media for free was causing "unhealthy competition" and "used by dishonest persons to carry out unnecessary criminal activities". Earlier in 2017, Bangladesh created a licensing regime for online media, and passed a Digital Security Act in 2018, under which it detained a journalist and a columnist for "spreading rumours" amid the COVID-19 pandemic.

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