



## **Tax & Regulatory Updates – Key developments of July 2021**

### **A. Direct Taxation: -**

- 1. Central Board for Direct Taxes (CBDT) had issued guidelines / clarifications for smooth implementation of new provisions of withholding taxes on purchase of goods from resident sellers:- Circular No.13/2021 dated 30 June 2021**

The Finance Act, 2021, inserted section 194Q in the Income-tax Act, 1961 (the Act) with effect from 1 July 2021. This provision stipulates an obligation on a buyer, purchasing goods from a resident seller to deduct tax at source equal to 0.1% on a sum exceeding INR 50 Lakhs in any financial year (FY). However, many representations were filed with the Central Board of Direct Taxes (CBDT) to issue clarifications on the applicability of section 194Q of the Act and also remove difficulties in implementing other overlapping provisions such as section 206C(1H) of the Act (tax collected at source (TCS) on sale of goods) and/ or section 194-O of the Act (tax deducted at source (TDS) by e-

commerce operator). **Therefore, the CBDT has now issued the following clarifications vide Circular No. 13 of 2021 for removing the difficulties in the implementation of Section 194Q:**

- i) Transactions of securities or commodities traded on a recognized stock exchange or cleared and settled by a recognized clearing corporation including those located in IFSC and transactions in electricity, renewable energy certificates and energy certificates traded through regulated power exchanges, shall be outside the purview of section 194Q.
- ii) It is clarified that purchases from 1 April 2021 to 30 June 2021 to be included for the purpose of determination of threshold of Rs. 50 lacs for the previous year.
- iii) Section 194Q will not be applicable to cases where the buyer has either credited or paid the amount to the seller before 1 July 2021.
- iv) Wherein amount is credited to the seller's account, and in terms of the agreement / contract between the buyer and seller, the GST component is indicated separately, then TDS u/s 194Q to be made on the amount credited without including GST.
- v) Section 194Q applies on payment or credit whichever is earlier and would thus, apply on advance payments too. Wherein TDS u/s 194Q is made on payment to the seller, because payment is earlier than credit, TDS has to be made on the whole amount.
- vi) Since TDS u/s 194Q is made at the time of payment or credit whichever is earlier, tax would have been already deducted on purchase return, in which case if the money is refunded by the seller, then the amount of TDS made may be adjusted against next purchase from the same seller. Further, no adjustment will be required if the purchase return is replaced in the form of goods by the seller.
- vii) The provisions of section 194Q shall not apply to a non-resident whose purchase of goods from a seller resident in India is not effectively connected with the permanent establishment of such non-resident in India.
- viii) Section 194Q is not applicable in the cases where the seller's income is entirely tax exempt and would apply where the seller's income is only partly exempt. Similarly, 206C(1H) would not apply to buyers who are exempt from income-tax such as entities exempt u/s 10 or passed under special laws like RBI Act, ADB Act etc.
- ix) Section 194Q not to apply in the year of incorporation of the buyer as the buyer is required to have gross receipts or turnover in excess of Rs.10 Crores in the financial year immediately preceding the financial year in which the transaction takes place.
- x) Section 194Q to apply only in the cases where the gross receipts or turnover from the business carried out by the buyer exceeds Rs.10 Crores in the financial year immediately preceding the financial year in which the transaction takes place and not to include the turnover from non-business activities for determination of the applicability.
- xi) If a transaction is covered both within the purview of section 194-O as well as section 194Q, tax is required to be deducted under section 194-O and not under section 194Q. Similarly, if a transaction is both within the purview of section 194-O as well as u/s 206C(1H) of TCS, tax is required to be deducted under section 194-O. In such a case, the primary responsibility is on the e-commerce operator due to higher TDS rate.
- xii) Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction. However, if for any reason, tax has been collected by the seller u/s 206C(1H), before the buyer could deduct tax under section 194Q on the same

transaction, such transaction would not be subjected to tax deduction again by the buyer. This is a concession to avoid difficulty as rates are same in both the sections.

## **2. CBDT granted further relaxation in filing the Form 15CA & CB in manual format:- Press Release dated 20th July 2021**

The CBDT, in view of the difficulties faced by the taxpayers in filing the said forms on the new Income Tax portal provided further relaxation that taxpayers can submit the forms in manual format to the Authorised dealer till 15th August, 2021 which was earlier extended up to 15th July, 2021. Further, CBDT again clarified that a facility will be provided on the new e-filing portal to upload these forms at a later date for the purpose of generating Document Identification Number.

## **3. CBDT has notified the new rules regarding computation of short-term capital gains (STCG) and written down value (WDV) where depreciation on goodwill has been obtained:- Notification No. 77/2021 dated 07 July 2021**

The CBDT has notified the new Income tax rules for computation of short-term capital gains (STCG) and written down value (WDV) where depreciation on goodwill has been obtained, potentially increasing tax liabilities on firms that have undergone mergers or acquisitions in recent years.

Recently, Finance Act, 2021, had amended that 'goodwill' will no longer be regarded as an "intangible asset" and depreciation would not be available with effect from April 2020. The Income Tax Act, 1961, was amended to the extent that goodwill will have to be removed from the block of asset as on April 1, 2020, such value to be reduced will be cost of goodwill, net of depreciation claimed till date.

Hence, the new Income tax rule provides for a computation mechanism to tax the impact of such removal, deeming it as a transfer. The CBDT notification stated that where the value of net goodwill removed from the block is in excess of the opening WDV as on April 1, 2020, such excess will now be offered to tax as STCG. However, in cases where goodwill was the only asset in the block, there won't be any impact.

## **4. CBDT has inserted a new rule on Capital Gain for firms:- Notification no. 76/2021 dated 02 July 2021**

CBDT has inserted a new Rule 8AB to provide that where the amount is chargeable to tax as income of partnership firm under Section 45(4), the firm shall attribute such amount to capital asset remaining with it in the following manner:

i) Where the amount chargeable to tax under Section 45(4) relates to revaluation of any capital asset or valuation of a self-generated asset or self-generated goodwill of the firm, the amount attributable to the capital asset remaining with it shall be the amount which bears to the amount charged under Section 45(4) in the same proportion as the increase in, or recognition of the value of that asset

because of revaluation or valuation bears to the aggregate of increase in, or recognition of, the value of all assets because of the revaluation or valuation.

ii) Where the amount chargeable to tax under Section 45(4) does not relate to the revaluation of any capital asset or valuation of a self-generated asset or self-generated goodwill of the firm, or relate only to the capital asset received by the partner from the firm, the amount charged to tax under Section 45(4) shall not be attributed to any capital asset for the purposes of Section 48(iii).

Further, the CBDT has also clarified that Rule 8AB is also applicable to the capital assets forming part of a block of assets. The partnership firm is required to furnish the details of the amount attributed to the capital asset remaining with it in Form No. 5C.

#### **5. CBDT issued certain instructions for processing of returns with refund claim in non-scrutiny cases:- Order dated 05 July 2021**

It has been brought to the attention of the Board that due to certain technical issues not attributable to the assessee concerned, several returns for various assessment years up to the assessment year 2017-18 could not be processed. Hence, to mitigate such genuine hardship being faced by the multiple taxpayers, the board has relaxed the time limit of return processing of the valid return filed by the taxpayers up to assessment year 2017-18. In such cases, return shall be processed by 30 September 2021 and all subsequent effects under the Act including issue of refund shall also follow as per the prescribed procedures.

However, the above relaxation shall not be applicable to the following returns: -

- a) returns selected in scrutiny;
- b) returns selected in scrutiny where demand arises;
- c) returns remain unprocessed for any reason attributable to the assessee.

#### **6. CBDT has notified new Income Tax Rule related to Forms, Return Orders and reports:- Notification No. 83/2021 dated 29 July 2021**

The CBDT has made certain modifications by omitting certain rules and obsolete forms as prescribed under the notification. Further, new rules have been inserted which relate to the Electronic furnishing of Income tax Forms, Returns, Statements, Reports, orders which empowers the Income tax authority to specify any of the Forms, returns, statements, reports, orders, by whatever name called, prescribed in Appendix II, to be furnished electronically and be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said Forms, returns, statements, reports, orders.

## 7. National Faceless Assessment Centre releases SOP for handling Writ Petitions against Assessments and Penalty Orders:- N.A.F.A.C-1/58/2021-22/333 dated 26 July 2021

The National Faceless Assessment Centre released the Standard of Procedure (SOP) for handling writ petitions where assessment is made under the Faceless Assessment Scheme 2019 (FAS' 19)/Section 144B of the Income Tax Act, 1961, where NaFAC or Central Board of Direct Taxes (CBDT) is one of the respondents.

The SOP mentions that it is being observed that NaFAC is one of the respondents in most of the writs because orders under FAS 2019 or u/s 144B of the Act are issued from NaFAC under concurrent jurisdiction as per section 120(5) while the primary / original jurisdiction lies with the Jurisdictional Tax Officer. As such NaFAC has no primary role in defending the writ except in cases where the scheme itself is challenged or a wider policy issue is involved and not on the issues related to the facts of the case. Hence, for this purpose, in each such case, the NaFAC shall authorize the Pr. CIT (Jurisdictional) as authority to defend the case before the Hon'ble High Courts.

On receipt of a writ petition, a copy shall be forwarded to the PCIT (Jurisdictional), in case proceedings are completed and to PCIT (ReFAC) (AU) where proceedings are pending with a copy to PCIT (Jurisdictional)], within 5 days of receipt for necessary action. In view of CBDT's communication dated August 14, 2020, the NaFAC shall authorize the PCIT (Jurisdictional) as the authority to defend the case before the High Courts.

On receipt of the request from the PCIT (Jurisdictional) for the unmasking of AU (assessment unit), the NaFAC shall forward the request to the Directorate of Systems for the unmasking of the AU concerned and provide such details of the PCIT (ReFAC) (AU) concerned to the PCIT (Jurisdictional).

On receipt of the request from the PCIT (Jurisdictional) for specific inputs on policy matters, the NaFAC shall examine whether the request is accompanied by terms of reference for seeking comments of NaFAC as per prescribed template. Analyse the writ petition and respond on broad policy issues

**A number of writs have been filed because of apparent violation of principles of natural justice (para 5 of SOP).** In such cases, the High Courts have set aside the cases back to the file of the Assessing Officer for giving a fresh opportunity and for taking into consideration the submissions of the assessee. When such an order is received in any case, the PCIT (Jurisdictional) will direct the specified officer to immediately create a set aside proceedings in ITBA. Thereafter, the ITBA may be requested to reallocate the case to FAO.

## 8. CBDT notified procedural changes in rule 12 of Income Tax Rules:- Notification No. 82/2021 dated 27 July 2021

CBDT vide its notification dated 27 July 2021 made a procedural amendment in rule 12 of the Income Tax Rules which prescribes the form for filing of the return of Income under Income Tax Act. The reference of sub-section (1) of Section 148 has been substituted with section 148 to align with the new Income escaping law introduced by Finance Act, 2021.

## **9. The Law Minister Shri Ravi Shankar Prasad launches 'ITAT E-Dwar', an e-filing portal of Income Tax Appellate Tribunal:- Press Release dated 26th June 2021**

Shri Ravi Shankar Prasad, Union Minister for Law & Justice, Communications and Electronics & IT, formally launched the e-filing portal of Income Tax Appellate Tribunal (ITAT), 'itat e-dwar'. On launching the portal, the minister explained the power of digital India. He further cautioned that this initiative of ITAT must not be seen as a solitary step. Instead, it should be seen as a larger narrative of transformation that the country is undergoing through digital medium. It will enable innovation and empowerment and open new avenues for growth. He expressed hope that 'itat e-dwar' will be widely accepted by the lawyers and tax litigants alike.

It was also informed that even during the period of Pandemic, by using the tools of information and communication technology, various benches of ITAT have functioned and kept up its activity of judicial dispensation. It was revealed that in spite of the restricted functioning of Benches, the adoption of Video Conferencing has brought down the pendency of cases. The newly developed e-Filing Portal would enable the parties to file their Appeals, Miscellaneous Applications, documents, paper books, etc., electronically. The ITAT explained that with the combination of digital courtroom, virtual hearings and Mobile Application providing Judicial Information, paperless courts will soon be a reality in ITAT

## **10. Government records Q1 net direct tax collection at Rs 2.47 trillion:- News Report**

In the recent reply to a question by Mr. Pankaj Chaudhary, Minister of State for Finance, in the Rajya Sabha, the government has recorded the direct tax collection in the April-June quarter at Rs 2,46,519.82 crore which rose to 109% as compared to the previous year in the same quarter. The minister further stated that this clearly shows revival of economic activities and positive sentiments among taxpayers during this current financial year.

<https://www.timesnownews.com/business-economy/economy/article/government-records-net-direct-tax-collection-at-rs-2-47-lakh-crore-in-q1/791196>

## **11. STT collection hits all-time high; taxman rides on bullish stock market:- News Report**

With Sensex witnessing record closing and Nifty hitting all-time high earnings, as per the news report, the Income Tax Department has set a new benchmark by collecting more than expected revenue on account of Securities Transaction Tax (STT) in the first quarter of the financial year 2021. There is an increase of 109% against the first quarter of FY 2020.

STT is levied at the time of purchase and sale of listed/ unlisted shares in the stock market, derivatives, equity-oriented Mutual Funds, debentures and bonds. STT varies from 0.001 percent to 0.1 percent on shares, derivatives, equity-oriented mutual funds, debentures and bonds.

[https://www.business-standard.com/article/finance/stt-collection-hits-all-time-high-taxman-rides-on-bullish-stock-market-121071500893\\_1.html](https://www.business-standard.com/article/finance/stt-collection-hits-all-time-high-taxman-rides-on-bullish-stock-market-121071500893_1.html)

## **12. Fixing glitches in Income Tax Portal single largest priority, says Infosys:- News Report**

Infosys top officials including the COO, Pravin Rao has said while declaring the Company's first quarter results said the Company is "expeditiously" focused on resolving issues related to the new income tax portal and termed it as the "single largest priority" for the company at the moment. Infosys top management said that many of the issues around performance and stability have been addressed, and that about 10 lakh Income Tax Returns have been filed so far. He added that while there is some work that still needs to be done, the company is confident that all these situations will be addressed in a step-by-step manner and all issues will be resolved shortly.

In 2019, Infosys had won the contract to develop the new income tax filing portal. However, users have complained of several glitches since it was launched on 7 June 2021. This had prompted Finance Minister Nirmala Sitharaman to step in and ask the IT major to resolve the issues immediately.

<https://economictimes.indiatimes.com/tech/information-tech/fixing-glitches-in-it-portal-single-largest-priority-says-infosys/articleshow/84408500.cms>

## **13. The Infosys acknowledged that the new Income Tax Portal has some Glitches which will resolved soon:- News Report**

As per the news report, in the Rajya Sabha, Minister of State for Finance, Pankaj Chaudhary informed this week that more than 700 e-mails detailing over 2,000 issues including 90 unique issues/problems in the portal were received from various stakeholders including Institute of Chartered Accountants of India (ICAI), tax professionals and taxpayers. The Income Tax Department is taking corrective measures through Infosys based on feedback from stakeholders.

## **14. Significant declarations numbering 1.32 lakhs involving Rs 99,765 cr of disputed tax filed under Vivad se Vishwas amnesty scheme covering around 28.73% of the total pending direct tax disputes:- News report**

On 17th March, 2020, the Direct Tax Vivad se Vishwas Act, 2020 was enacted with the primary aim to settle all the various direct tax disputes which are currently locked up in numerous appellate forums across the country. Parliament was informed on Monday that as on the date of eligibility, the total number of pending tax disputes were 5,10,491. Total 1,32,353 declarations have been received under the scheme, entailing disputed tax amounting to Rs 99,765 crore covering around 28.73% of the total pending direct tax disputes in the country.

Under the Vivad se Vishwas scheme, the government has resolved a significant number of direct tax disputes with the taxpayers. The last date for making declaration under the scheme was March 31, 2021 which has been extended till August 31. Taxpayers also have the option to make payments till October 31, with an additional amount of interest.

## **15. 107 cases filed by the Income Tax Department on the black money stashed overseas: - News Report**

In a recent reply by Mr. Pankaj Chaudhary, Minister of State for Finance, in the Parliament said, the government has filed 107 black money cases where money stashed overseas till the end of May. Also, he further stated that in the Panama papers cases, undisclosed credits of Rs 20,078 crore have been detected and in the case of paradise papers Rs 246 crore is detected. Further, assessment order has been passed in the 166 cases under the Black Money Act with demand raised by the department of around Rs 8,216.

### **B. Cross Border: -**

#### **1. Inland Revenue Authority of Singapore (IRAS) issued guidance for taxability of employees working remotely due to COVID-19:- IRAS Update dated 19 July 2021**

The Inland Revenue Authority of Singapore (IRAS) has issued support measures and tax guidance to individuals working remotely from Singapore due to COVID-19 restrictions.

It has stated that the permanent residents of Singapore employed overseas but working remotely from Singapore shall be considered as “not exercising employment in Singapore”, subject to fulfilment of stipulated conditions which are:

- i) no change in contractual terms governing overseas employment before and after return to Singapore,
- ii) remote working to be temporary arrangement in view of COVID-19,
- iii) work performed remotely would otherwise have been performed overseas but for travel restrictions,
- iv) Individual leaves Singapore as soon as feasible or before Jun 30, 2021 and
- v) employment income earned during the stay in Singapore from Jan 1, 2021 to Jun 30, 2021 is taxable in the country of employment;

While conditions (i) and (ii) are applicable in cases where the period of stay of the individual did not extend beyond 30 December 2020, the additional conditions are to be satisfied when the period of stay extended up to 30 June 2021.

In case of individuals working from Singapore from 1 July 2021 onwards, employment income from work done in Singapore would be subject to income tax as per normal tax rules, further such individuals can seek review of such tax treatment in cases where they are not able to exit Singapore on account of COVID-19 related restrictions.

Further, Non-residents on short-term business assignment in Singapore and unable to leave, due to COVID-19 restrictions, would be considered as not exercising employment in Singapore for the period of extended stay in 2020, if the period of such extended stay is not more than 60 days and the work done during such extended stay is not connected to the business assignment in Singapore and would have been performed overseas if not for COVID-19.



IRAS also referred to the OECD's updated guidance where it was noted that COVID-19 has stranded employees in other than their usual jurisdiction and provided that for the purpose of residency under DTAA for employment income, IRAS will disregard the period of extended stay in Singapore on fulfilment of following conditions:

- i) non-resident employee is prevented from leaving Singapore in view of COVID-19 related quarantine and travel restrictions,
- ii) the employee would have otherwise left Singapore and such activities would not have been carried out in Singapore, and
- iii) non-resident employees are subject to tax in the country of employment for the income not taxed in Singapore.

<https://www.iras.gov.sg/irashome/COVID-19-Support-Measures-and-Tax-Guidance/Tax-Guidance/For-Individuals/Working-Remotely-from-Singapore-due-to-COVID-19/>

## **2. G20 finance ministers sign off on global tax deal:- OECD**

Finance ministers from the G20 club of large economies signed off on a plan for global tax reform at a summit in Venice few days back. The ministers rubber-stamped a deal, agreed by some 130 nations last week, that seeks to introduce an international tax on multinational companies and sets a global minimum tax rate of 15 percent. The reform, orchestrated by the Organization for Economic Cooperation and Development, aims to stop multinationals from shifting profits into tax havens. "After many years of discussions and building on the progress made last year, we have achieved a historic agreement on a more stable and fairer international tax architecture," the ministers said in a joint statement.

Final approval of the deal is not expected until the G20 leaders' meeting in Rome in October, however, with some details yet to be ironed out.

## **3. Proposed global tax regime will benefit India:- Pascal Saint-Amans, Director-tax, OECD**

The proposed global tax regime should result in significant revenue for countries including India, said Pascal Saint-Amans, director-tax at the OECD, expressing confidence that negotiations would be completed on time. "The allocation key does favour India, which is a very large market for these (multinational) companies. This is very beneficial compared to the current rules," he said in an interview.

Taxes like the equalisation levy, imposed by India to collect tax from the major digital companies which otherwise do not pay taxes here according to the existing rules, will need to go once the global regime is rolled out. "The rationale for these taxes disappears with the new rules and their withdrawal is a key element of the agreement," Saint-Amans said, outlining the gains from the new regime. Asked whether apportioning would compensate India enough, he said, "I do not have the data to say what would be the revenues for India under the new rules, but they should result in significant revenues for countries, including India."

These would apply to the MNEs that have global sales of more than €20 billion (1€ =Rs 88) and profitability greater than 10%. Profit in excess of 10% of revenue will be allocated to market

jurisdictions with nexus using a revenue-based allocation. He said the timelines for the tax can be met. "October 2021, just three months away, is another important milestone. The elements of the package will be finalised by then, complete with an implementation plan to develop model legislation, guidance and a multilateral treaty in 2022, with implementation from 2023," he said.

#### **4. OECD/G20 Inclusive Framework tax deal joined by India:- Press Release dated 02 July 2021**

A Press release has been issued by Indian government highlighting the acceptance by Indian government of the broader level agreement reached by around 130 countries on two Pillar proposals a few days back at OECD. As per the press release, the detailed framework would be expected by October 2021 on Pillar One which is about reallocation of additional share of profit to the market jurisdictions and Pillar Two consisting of minimum tax and subject to tax rules. Further, India has also expressed its intent to implement the solution that would result in allocation of meaningful and sustainable revenue to market jurisdiction.

#### **5. OECD releases its annual corporate tax statistics by highlighting the importance of the international tax reform:- OECD Update dated 29 July 2021**

OECD releases its annual Corporate Tax Statistics (3rd edition) highlighting the role of corporate taxes as a source of government revenues and underlines the importance of the two-pillar plan of the OECD/G20 Inclusive Framework, while pointing to evidence of continuing base erosion and profit shifting behaviours.

The Report reveals that corporate tax is an important source of tax revenue for governments to fund essential public services, more so in the developing and emerging market economies evidenced by the fact that corporate tax accounted for a higher share in total taxes in Africa (19.2%) and in Latin America and the Caribbean (15.6%) than in OECD countries (10%). The Report also incorporates new country-by-country reporting data which provides aggregated information on the global tax and economic activities of around 6000 MNE groups headquartered in 38 jurisdictions and operating across more than 100 jurisdictions worldwide, aimed to support the improved measurement and monitoring of BEPS. The statistics point at a continued misalignment between the location where profits are reported and the location where economic activities occur, which other than reflecting some commercial considerations also indicate the existence of BEPS.

<https://www.oecd.org/tax/beps/new-oecd-data-highlights-the-importance-of-the-international-tax-reform-discussions.htm>

#### **6. European Union (EU) delays the digital tax plans amid discussions on consensus at G20:- News Report**

As per the new reports, European Union might delay its plans to introduce a levy on digital services amid intense pressure from the US administration an EU spokesman said Monday, after finance chiefs from the Group of 20 leading economies endorsed an overhaul of the rules for taxing international companies. As per the reports, US administration wants such digital levies to be removed as part of the global overhaul of cross border corporate taxation. Hence, for the time being

the EU would set aside its plans to introduce the digital levy and would focus on implementing the G20 deal.

The EU's announcement came as U.S. Treasury Secretary Janet Yellen met with European Commission Executive Vice President Valdis Dombrovskis in Brussels, where she was expected to discuss the tax deal and lobby against the proposed EU levy, which has been criticized as conflicting with the G-20 deal.

## **7. India engaging proactively with Switzerland to obtain information under the tax treaty:- News report**

The government has recently said that India is engaging proactively with Switzerland to seek information on matters relating to the Double Taxation Avoidance Agreement between the two countries. Further, Pankaj Chaudhary (Minister of State for Finance) while replying to queries said that according to certain media reports funds of Indians in Swiss banks have risen in 2020 and these figures do not indicate the quantum of black money held by Indians in Switzerland.

Further, the Swiss authorities have also conveyed that customer deposits held with Swiss banks are not necessarily located in Switzerland. Thus, the SNB annual banking statistics should not be used for analysing deposits held in Switzerland by residents of India. He added that 'India is engaging proactively with Switzerland to obtain information in relevant cases under the Double Taxation Avoidance Agreement between India and Switzerland. Both countries are also signatories to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters'. India and Switzerland have signed the Multilateral Competent Authority Agreement for exchange of information between the two countries for sharing of financial account information under Common Reporting Standard (CRS) annually.

<https://economictimes.indiatimes.com/news/economy/policy/india-engaging-proactively-with-switzerland-to-obtain-info-under-tax-treaty/articleshow/84581880.cms>

## **8. Ireland seeks input on OECD tax proposals impact on the Irish policy:- News Report**

Ireland has been one of the countries that has so far declined the proposal under Pillar Two of the agreement for a global minimum tax of at least 15% as it would certainly result in reducing its investment attractiveness that attracts a 12.5% rate of tax as of now. Hence, in order to get more clarity of thought, the Irish Department of Finance has sought consultation on impact that its economic goals would experience in light of the OECD tax proposals. The consultation also seeks comment on how related US tax proposals, such as GILTI and SHIELD, could have important implications for the Irish tax code.

Comments on the consultation will be accepted until September 10.

<https://mnetax.com/ireland-seeks-input-on-oecd-tax-proposals-impact-on-irish-tax-policy-45154>

## **9. The competent authorities of UK and US address tax treaty limitation on benefits article:- News Report**

The US Internal Revenue Service on July 28 published two competent authority arrangements between the US and the UK that clarify the application of the limitation on benefits article in light of the UK's exit from the EU (Brexit) and the entry into force of the US–Mexico–Canada Agreement (USMCA).

As per the news report, the US and the UK clarify the application of the limitation on benefits article in light of the UK's exit from the EU (Brexit) and the entry into force of the US–Mexico–Canada Agreement (USMCA). The US–UK tax treaty includes in Article 23 a limitation of benefits provision that is intended to prevent treaty shopping by residents of third countries attempting to obtain benefits under the treaty. The US-UK competent authority confirms that a UK resident is 'a resident of a Member State of the European Community' for purpose of applying the "derivative benefits test" under Article 23 and also agree regarding USMCA that references to the North American Free Trade Agreement (NAFTA) for purposes of the equivalent beneficiary definition.

*(This space has intentionally been left blank)*

## **C. Indirect Taxation: -**

### **1. Modifications in annual GST returns:- Notification no. 29/2021 to 31/2021**

The Government has notified 01 August 2021 as the date for amending section 35 whereby requirement for certification by CA / CMA / CS has been removed. Taxpayers whose aggregate turnover in FY 2020-21 is up to Rs. 2 Crores are exempted from filing of GSTR-9. The due date for FY 2020-21 has been kept as 31 December 2021.

### **2. Functionality to check and update bank account details:- GSTN update dated 29 July 2021**

A functionality to check status of bank account details update for the taxpayers who have taken new registration at GST Portal but have not yet furnished the same, has been introduced, in view of Rule 10A of the CGST Rules 2017. Such taxpayers are required to update their bank account details within 45 days of the first login henceforth. The taxpayers may login and update Bank Account details through Non-core amendment. In case the taxpayers who had not updated their bank account after registration and also failed to update within 45 days of their first login henceforth, the system will prompt and force them to comply with the requirements.

### **3. New functionality on Annual Aggregate Turnover deployed on GST Portal for taxpayers:- GSTN update dated 27 July 2021**

GSTN has implemented a new functionality on taxpayers' dashboards with which the taxpayers can see the aggregate turnover of the current FY based on the returns filed till date. The taxpayers have also now been provided with the facility of turnover update in case taxpayers feel that the system calculated turnover displayed on their dashboard varies from the turnover as per their records. This facility of turnover update shall be provided to all the GSTINs registered on a common PAN. All the changes by any of the GSTINs in their turnover shall be summed up for computation of Annual Aggregate Turnover for each of the GSTINs. The taxpayer can amend the turnover twice within a period of one month from the date of roll out of this functionality. Thereafter, the figures will be sent for review of the Jurisdictional Tax Officer who then can amend the values furnished by the taxpayer.

This should be helpful for the taxpayers to avoid having a mismatch in reportings of the revenue to various regulators.

### **4. Adjournment of personal hearing enabled on GSTN portal:- GSTN portal**

The GST portal has enabled the service to request for an adjournment for Personal Hearing and extension of time for filing of reply to show cause notice. The request can be filed by logging in the GST portal and filling up the details namely date of hearing and time of hearing for personal hearing

for request for an adjournment for personal hearing and the due date to reply to the Show Cause Notice for request for extension of the due date for replying to the Show cause notice. An option to upload the supporting documents has also been enabled.

#### **5. Functionality to register complaint on misuse of PAN in GST Registration:- GSTN update dated 29 June 2021**

To address the complaint related to misuse of PAN for obtaining GST registration, a functionality to register such complaints on GST Portal has been introduced on the GST portal. It will check the misuses, control the frauds and help officers in enquiry and cancellation of such registration. Once a complaint is registered, it will be sent to the concerned jurisdictional authority where the registration is claimed to be fraudulently taken, for necessary enquiry and suitable action. The complaints so registered, shall be made available to the competent authorities at their dashboard under – Application for Reporting Fake GSTIN’s for further necessary action. The officers shall have a new Role of “PAN Vigilance officer” in the Back Office for this purpose.

#### **6. Penalty under section 125 waived for Dynamic QR code:- Notification no. 28/2021, Central Tax dated 30 June 2021**

The Government has issued a notification waiving penalty under section 125 for non-compliance of the provisions of notification No.14/2020 i.e., having dynamic QR code for B2C invoice between the period from 01 December 2020 to 30 September 2021.

#### **7. Principal to principal relationship is not relevant for the purpose of determining an intermediary:- Karnataka AAR in Airbus Group India Private Limited in ruling no. KAR ADRG 31/2021**

The AAR in a recent ruling while examining the definition of intermediary held that there can be difference between agent, broker and an intermediary. Whereas in the case of an agent or broker, activity is undertaken on another’s behalf which is not necessary in the case of an intermediary. Therefore, the reliance on principal to principal relationship or calling oneself as an independent contractor is not relevant for the purpose of determining an intermediary as per the definition. An intermediary will merely facilitate or arrange the supply of goods or services between two or more people but will not be providing such supplies on his own account.

The ruling is in contradiction with previous rulings which have held that services provided on a principal-to-principal basis will not qualify as intermediary services.

## **8. Discount given by Company to their dealers through distributors held as consideration for goods supplied by distributor to dealers:- Kerala Appellate AAR in Santhosh Distributors in Order No. AAR/10/2020**

The Kerala AAAR has rejected the appeal filed against order of AAR where it was held that the additional discount given by the supplier through the Appellant, which is reimbursed to the Appellant is to offer a special reduced price to the customers and hence the amount represent consideration paid by the supplier of goods to the Appellant for supply of goods to the customer. The Appellant challenged on the ground that circular dated 28 June 2019, basis which the order has been passed stands withdrawn and that discount not been reduced from transaction value and therefore, treating the same as consideration flowing amounts to double taxation.

The AAAR held that irrespective of the circular the interpretation of the provisions of Section 15 of GST Act supports the order passed by the AAR and upheld the order.

## **9. Payment of interest in instalments:- Gauhati High Court in M/s Aich Brothers vs. The Union of India and 6 Ors., in WP(C)/3222/2021**

The petitioner was aggrieved because of striking out of the registration of the petitioner firm by the respondent GST causing immense difficulties in getting released the payment due to him against various contractual works in different organization namely Oil India Limited, Digboi Refinery etc. The Petitioner stated that due to striking out of the registration of the petitioner he could not collect the contractual dues from the various organizations against the contractual job. He therefore sought appropriate direction to accept the amount shown as interest liability by the respondent GST in instalment due to the financial crisis faced by the petitioner.

The Court directed the petitioner to approach the concerned authority along with an application to permit the petitioner to pay the interest liability referred hereinabove in installment as a special case keeping in view the pandemic situation arising out of Covid-19 and on having submitted the said application along with order passed today the same shall be disposed of within seven days from the date of receipt of the representation. The registration shall be restored if all dues are cleared as per direction of the concerned authority.

## **10. Summons issued held as pre-SCN consultation:- Delhi High Court in Kriday Realty Private Limited vs. Union of India and Anr. in W.P.(C) No.16857 of 2021**

The Petitioner approached the High Court stating that show cause notice should be set aside as no pre-SCN consultation was held. In the case, the director / employee was issued summons which were not responded. The Court held that the purpose of paragraph 5.0 of the Master Circular is only that there should be “trade facilitation” and “voluntary compliance” in order to reduce the necessity of issuing a SCN. In effect what appears to have transpired pursuant to the summons issued was a ‘consultation’ where the documents produced by the Petitioner/employees of the Petitioner were examined and questions were posed to the notices to explain many aspects of such documents. Accordingly, the Court dismissed the petition filed and held that the requirement of having ‘consultation’ in terms of paragraph 5.0 of the Master Circular stands satisfied in the present case.

**11. Order under rule 86A creates lien over credit yet to be availed – Restriction only on debit of credit does not allow appropriation:- Allahabad High Court in RM Dairy Products LLP vs. State of UP and 3 Ors. in Writ Tax No. - 434 of 2021**

The High Court dismissed challenge to blocking of input tax credit under rule 86A as no input tax credit was available as on the date of passing of order. The Court held that if there is no positive credit standing in the electronic credit ledger on the date of the order, passed under Rule 86-A, that order would be read to create a lien upto limit specified in the order passed as per Rule 86-A of the Rules. As and when the credit entries arise, the lien would attach to those credit entries upto the limit set by the order passed under Rule 86- A of the Rules.

The Court further held that input tax credit which has been blocked cannot be appropriated under rule 86-A and that adjustment or appropriation may arise only upon an adjudication order attaining finality or after lapse of three months from the date of it being passed if there is no stay granted in appeal etc. that too as a consequence of the recovery provisions but not under Rule 86-A of the Rules.

**12. ITC reversal under section 17(5)(h) not required for loss arising from manufacturing process:- Madras High Court in M/S. Ars Steels & Alloy International Pvt. Ltd. vs. The State Tax Officer, Group – I, Inspection, Intelligence – I, Chennai vide order dated 24 June 2021**

The High Court in a writ petition decided on the legal issue as to whether a reversal of Input Tax Credit (ITC) is contemplated in relation to loss arising from manufacturing process. The Court relying upon Rupa & Co. Ltd. vs. CESTAT, Chennai observed that the expression 'inputs of such finished product', 'contained in finished products' cannot be looked at theoretically with its semantics.

It has to be understood in the context of what a manufacturing process is. If there is no dispute about the fact that every manufacturing process would automatically result in some kind of a loss such as evaporation, creation of by-products, etc., the total quantity of inputs that went into the making of the finished product represents the inputs of such products in entirety. The Court held that the reversal of ITC involving Section 17(5)(h) by the revenue, in cases of loss by consumption of input which is inherent to manufacturing loss is misconceived, as such loss is not contemplated or covered by the situations adumbrated under Section 17(5)(h).



**13. Exemption from payment of GST to the extent the contribution exceeds INR 7500 – Circular dated 22 July 2019 set aside:- Madras High Court in Greenwood Owners Association and Ors. vs. The Union of India and Ors. in W.P. Nos.5518 & 1555 of 2020**

The High Court has set aside a ruling of Advance Authority of Rulings and Circular No.109/28/2019-GST dated 22 July 2019 where it was provided that grant of exemption under sr. no. 77 of notification no. 12/2017 is conditional upon the contribution being an amount of INR 7500 or less. If the contribution exceeded the sum of INR 7500, then the very entitlement of that RWA to exemption would stand defeated and the entirety of the amount collected would have to be brought to tax.

The High Court held that in a case where legislature intended that the exemption shall apply only to cases where the amount charged does not exceed a specified pecuniary limit, it states as much, as can be seen from the language deployed in the proviso to Clause 56 in Notification 25 /2012 where it is stated ‘the exemption shall apply only where the gross amount charged for such service does not exceed INR 5000 in a financial year’. The Court held that the conclusion of the AAR as well as the Circular to the effect that any contribution above INR 7500 would disentitle the RWA to exemption, is contrary to the express language of the Entry in question and both stand quashed. It further clarified it is only contributions to RWA in excess of INR 7500 that would be taxable under GST Act.

**14. GST registration required for medical unit run by Charitable Trust providing medicines at a lower rate:- Gujarat High Court in Nagri Eye Research Foundation vs. Union of India in R/Special Civil Application No. 7822 of 2021**

The Petitioner is a registered charitable trust running a medical store which provides medicine at a lower rate. The AAR and AAAR had held that the Petitioner requires GST registration for the said activity. The Petitioner challenged the order requiring GST registration in the High Court. The Court held from the bare reading of the said definition, it clearly emerges that any trade or commerce whether or not for a pecuniary benefit, would be included in the term ‘businesses as defined under Section 2(17) of the said Act. The Court upheld the orders that the Medical Store run by the Charitable Trust would require GST Registration, and that the Medical Store providing medicines even if supplied at lower rate would amount to supply of goods.

**15. Rationalisation of GST structure into 3 slabs should happen soon:- News Report**

The rationalization of the goods and services tax (GST) structure into three slabs by merging two existing slabs is on the cards, and progress should be seen soon, chief economic adviser in the finance ministry Krishnamurthy Subramanian said. A proposal to merge the 12% and 18% slabs into a single rate has been discussed for several years. However, no final proposal on this has been made at the GST Council, which will take a call on it.

<https://www.livemint.com/politics/news/rationalisation-of-gst-structure-into-three-slabs-on-the-cards-cea-subramanian-11627564867144.html>

## **16. PEs, VCs mull recast to get around GST on carry fee:- News Report**

PE and VC funds looking to resolve the issue of indirect tax on the carry fee earned by managers are trying to create a step-down entity that will act as a buffer to absorb the charge before passing it on to the main firm. Carry fee is essentially a share of profit or investment that fund managers make. A tax tribunal had held that indirect taxes were applicable on expenses incurred by VC, PE and mutual fund firms, even if they were structured as trusts. Essentially, it means expenses such as carry fees, legal fees and salaries incurred by a fund held as a trust could attract indirect tax. Many PE and VC firms are thinking of setting up a non-banking buffer entity.

## **17. PIL seeks setting up of GST tribunal to cut backlog of cases:- News Report**

A PIL in the Supreme Court has been filed seeking directions to the Centre for setting up of the Goods and Services Tax Appellate Tribunal, as mandated under the Central Goods and Services Act, 2017, to avoid hardships caused to litigants and to curb the huge backlog of cases. Even after four years of the CGST Act coming into existence, the tribunal has not been constituted. Earlier this year, the Allahabad High Court had also directed the central government to specify by notification under the CGST Act, the creation of the state bench of GST Tribunal at Allahabad and four area benches at Ghaziabad, Lucknow, Varanasi and Agra.

<https://www.financialexpress.com/economy/pil-seeks-setting-up-of-gst-tribunal-to-cut-backlog-of-cases/2295879/>

## **18. Govt conducts review of legal issues in GST system:- News Report**

The Centre has begun a comprehensive review of the Goods and Services Tax (GST) law to examine issues that have emerged in the system. The review will also examine whether services provided by back offices of multinational companies in India qualify as exports, which currently have a GST rate of zero. There is also confusion over whether GST is applicable on discounts, which are reimbursed by FMCG and consumer durables companies to their dealers. The review is expected to simplify the law and reduce disputes related to the indirect tax.

<https://www.moneycontrol.com/news/business/economy/govt-conducts-review-of-legal-issues-in-gst-system-report-7206851.html>

## **19. GST officials unearth tax evasion instances through radio frequency data:- News Report**

The Goods and Services Tax (GST) department has begun to identify instances of tax evasion and frauds identifying mismatches between E-way bills and the radio frequency tags used to cross toll plazas. GST authorities are now comparing the data given at the time of generating e-way bills for goods movement with the actual movement of vehicles captured at toll plazas and identifying

revenue leakages. E-way bills are mapped to a Radio Frequency Identification Device (RFID) embedded onto the conveyance. This helps in cross verification of details of the goods transported in the bill to the physical movement and detect any mismatches.

<https://www.moneycontrol.com/news/india/gst-officials-unearth-tax-evasion-instances-through-radio-frequency-data-7145231.html>

## **20. Confusion over GST on annuity from govt: - News Report**

Several infrastructure companies that are building highways have come under the tax department's scrutiny for taxing of annuity under GST. The tax department had said that annuity is outside the gamut of the GST framework. The issue stems from a circular issued by the Government on 17 June 2021 which provided that toll paid in form of annuity will be exempt under GST.

<https://economictimes.indiatimes.com/news/economy/infrastructure/confusion-over-gst-on-annuity-from-govt-infra-companies-under-taxmans-lens/articleshow/84256227.cms?from=mdr>

## **21. 18% GST forces hotels to junk biodegradable packaging:- News Report**

A higher GST on environment-friendly and biodegradable material is the biggest stumbling block to using cutlery made of bagasse (pulpy fibre extracted from sugarcane juice) for serving and parcels. While bagasse attracts 18% GST, plastic despite being banned comes cheaper with only 5% GST. The taxation is in stark contrast to the government's own policy to encourage biodegradable packaging. The hotel associations have now demanded that the government reduce the GST on cutlery made of bagasse to make it more affordable to the industry.

<https://timesofindia.indiatimes.com/city/mumbai/mumbai-18-gst-forces-hotels-to-junk-biodegradable-packaging/articleshow/84330488.cms>

## **22. Government identifies items for Customs exemptions review, asks for views:- News Report**

The government has identified a host of Customs exemptions for review and has invited suggestions from trade and industry bodies on the same. Importers, exporters, domestic industry and trade associations are invited to give views on the subject for consideration by the government by 10 August 2021 on the 'MyGov.in' portal. Giving a list of 97 notifications, the Government said certain Customs exemptions have been identified for purpose of further review.

[https://www.business-standard.com/article/economy-policy/govt-identifies-items-for-customs-exemptions-review-asks-for-views-121071200016\\_1.html](https://www.business-standard.com/article/economy-policy/govt-identifies-items-for-customs-exemptions-review-asks-for-views-121071200016_1.html)

#### **D. REGULATORY: -**

##### **1. Ministry of Corporate Affairs (MCA) clarification on spending of Corporate Social Responsibility (CSR) funds for Covid-19 vaccination:- General Circular no.-13/2021, dated 30 July 2021**

Earlier in March 2020 MCA vide its general circular no. 10/2020 dated 23.03.2020 clarified that spending of CSR funds for COVID-19 is an eligible CSR activity. Further, in continuation to the above circular it is now further clarified vide circular dated 30 July 2021 that spending of CSR funds for COVID-19 vaccination for persons other than the employees and their families is an eligible CSR activity under following item of Schedule VII of the Companies Act, 2013

- Relating to promotion of health care including preventive health care and
- Relating to disaster management.

##### **2. Ministry of Corporate Affairs notifies changes in Section 16 of the Companies Act, 2013 i.e. Rectification of Name of Company:- Notification No. S.O. 2904(E), Notification No. G.S.R. 503(E) dated 22 July 2021.**

Recently, MCA notifies section 4 of the Companies (Amendment) Act, 2020 which further amends section 16 of the Companies Act, 2013 i.e. Rectification of Name of the Company. Also, MCA on 22 July 2021 has published the Companies (Incorporation) Fifth Amendment Rules, 2021 to further amend the Companies (Incorporation) Rules, 2014 which shall come into force from 1st September 2021. Following changes have been notified: -

- Now, where an application is made by a registered proprietor of a trade mark that the name of any Company is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, within 3 years of incorporation or registration then Central Government shall direct the change in the name of the Company within 3 months from the issue of such direction. Earlier the time limit was 6 months.

- Earlier a fine of Rs. 1000 per day on the Company and Rs. 5000 fine was leviable on every officer of the Company which defaults in complying with the directions issued by Central Government for the change in the name of the Company. Now, the above subsection has been deleted and it has been prescribed that the Central Government shall allot a new name to the company and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name which the company shall use thereafter.

- As per the rule, in case if a company fails to change its name or new name within a period of three months from the date of issue of such direction, the letters “ORDNC” ( “Order of Regional Director Not Complied”), the year of passing of the direction, the serial number and the existing Corporate Identity Number (CIN) of the company shall become the new name of the company without any further act or deed by the company, and the Registrar shall accordingly make entry of the new name in the register of companies and issue a fresh certificate of incorporation in Form No.INC-11C.

However, the above rule shall not apply in case e-form INC-24 filed by the company is pending for disposal at the expiry of three months from the date of issue of direction by Regional Director, unless the said e-form is subsequently rejected.

### **3. New definition of Micro Small and Medium enterprises ('MSME') adopted by RBI on inclusion of Wholesale and Retail traders to register at Udyam registration portal:- RBI Notification RBI/2021-22/67 dated 07 July 2021**

Ministry of MSME has decided to include Retail and Wholesale Trade as MSMEs for the limited purpose of Priority Sector Lending and they would be allowed to be registered on Udyam Registration Portal for the following NIC Codes and activities mentioned against them: -

1. Code 45 for activity of wholesale and retail trade and repair of motor vehicles and motorcycles;
2. Code 46 for activity of wholesale trade except of motor vehicles and motorcycles and
3. Code 47 for activity of retail trade except of motor vehicles and motorcycles

In view of the above, RBI has adopted the same for priority sector lending purposes.

### **4. Government announced inclusion of Retail and Wholesale trades under MSMEs:- Press Release dated 2 July 2021**

Minister of MSME and Road Transport, Nitin Gadkari on Friday announced revised guidelines for Micro, Small, and Medium Enterprises with the inclusion of retail and wholesale trades as MSMEs.

With the revised guidelines, retailers and wholesalers will now be allowed to register on the Udyam Registration portal. It is a zero-cost MSME registration portal with over 31 lakh entities registered as of June 2021. Smaller retailers will now get MSME sector benefits like priority sector lending, which will give them much-needed access to capital to revive from the impact of COVID-19. Moreover, the traders can now benefit from the several benefits of various government schemes available to the MSMEs. The Confederation of All India Traders (CAIT) said COVID-19 impacted traders will now be able to restore their business and get necessary financing from the banks, which was earlier denied.

### **5. The existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till 30 June 2020 to remain valid till 31 December 2021: - RBI Circular No. RBI/2021-2022/63 dated 25 June 2021**

In view of challenges triggered by the Covid pandemic, the Reserve bank of India has recently clarified that the existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till 30 June 2020 shall remain valid till 31 December 2021.

### **6. The Ministry of Electronics and IT approved 14 eligible applicants under PLI Scheme for IT Hardware Products: - Press Release dated 1 July 2021**

PLI Scheme for IT Hardware notified on 3rd March 2021 which provides an incentive of 4% to 2%/1% on net incremental sales over base year 2019-20 of approved goods for a period of 4 years (FY 2021-22 to FY 2024-25). Now, the Ministry of Electronics and IT has approved 14 eligible

applicants under Production Linked Incentive (PLI) Scheme for IT Hardware Products, out of which four companies have been selected under the category IT Hardware Companies and others are selected under the category of Domestic Companies. Incentives of Rs. 7,325 Crore will be Provided over four years for Manufacturing of approved products in India. The Ministry said that PLI Schemes will help in making India a globally competitive destination for electronics manufacturing and create domestic champions to further our mission of achieving an Atma Nirbhar Bharat

**7. Acceptance, processing and issuance of claims under MEIS, SEIS, ROSL, ROSCTL in the DGFT IT modules on hold for some time:- Trade Notice no. 08/2021-22 dated 08 July 2021**

DGFT vide its further trade notice dated 08 July 2021, has clarified that the issuance of benefits/scrips under MEIS, SEIS, ROSL and ROSCTL Schemes has been put on hold for a temporary period due to changes in the allocation procedure. Further, no fresh applications would be allowed to be submitted at the online DGFT portal for these schemes and all submitted applications pending for issuance of scrips would also be on hold. The Trade notice also mentions that the trade would be suitably informed once issuance of scrips is opened again.

**8. Inviting suggestions regarding New Foreign Trade Policy (2021-26):- Trade Notice no. 09/2021-22 dated 16 July 2021**

The Foreign Trade Policy 2015-2020 was extended till 30 September 2021. In order to prepare a new five-year Foreign Trade Policy, suggestions/inputs are invited from various stakeholders. To collate, analyse and for ease of processing the suggestions/inputs received, a Google Form has been created on the following link: <https://bit.ly/3khHEI2>. The link is valid upto 31 July 2021.

**9. DGFT notifies revised format of ANF-2C:- DGFT Public Notice No. 12/2015-20 dated 12th July 2021**

DGFT vide its Public Notice dated 12 July 2021 has notified the revised format of ANF-2C. In order to remove/lower the compliance burden, the DGFT has deleted the requirement of furnish quarterly return /details of exports of different commodities to concerned registering authority by the exporter and has further removed the requirement of submission of monthly returns of exports including 'NIL' returns to the Registering authority by 15th day of the following month.

**10. DGFT amends Forms ANF-2H & ANF-2I to reduce Exporter's Regulatory Compliance burden:- Public Notice No.13/ 2015-2020 dated 12 July 2021**

Recently DGFT vide its public notice dated 12 July 2021 revised the formats of ANF-2H i.e. Application for Free Sale & Commerce Certificate and ANF-2I i.e. Application for Free Sale &

Commerce Certificate for items other than Medical Devices/Instruments of Handbook of Procedures, 2015-2020 and deleted the requirement of furnishing RCMC details and RCMC related declaration in earlier form ANF-2H and ANF 2I. The revised formats of ANF-2H and ANF-2I of Handbook of Procedures, 2015-2020 are notified as a step towards reducing the regulatory compliance burden.

### **11. Directorate General of Foreign Trade makes changes in the validity period for import and Revalidation of Authorisation:- Public Notice No. 16/2015-2020-DGFT dated 22 July 2021**

The Director General of Foreign Trade makes the following amendment in HandBook of Procedures 2015-20: -

- i) The amendment now allows only one revalidation for a period of 12 months to Advance Authorisations issued on or after 15 August 2020, instead of 2 revalidation of 6 months each, provided earlier. Applications for any such revalidation may be submitted online to the concerned Regional Authority on or after 01 August 2021.
- ii) The amendment to allow submission of record of Maintenance of Proper Accounts on the DGFT Website and Maintenance of proper accounts of import and its utilisation are required to be filed online to Regional Authority in place of earlier offline submission of the records.

### **12. DGFT extends the date for Mandatory electronic filing of Non-Preferential Certificate of Origin: - Trade Notice No. 10/2021-2022 dated 19 July 2021**

The Directorate General of Foreign Trade has extended the date for Mandatory electronic filing of Non-Preferential Certificate of Origin through the Common Digital Platform to 1st October 2021. The objective of this platform is to provide an electronic, contact-less single window for the Certificate of Origin related processes. However, on the request of certain Chambers/ Associations, the existing system of submitting and processing non-preferential Certificate of Origin applications in manual/ paper mode is being allowed for the time being and the online system is not being made mandatory. Therefore, the option of submission and issuance of Non-Preferential Certificate of Origin by the issuing agencies through their paper-based systems may continue further up to 30 September 2021.

### **13. The Director General of Foreign Trade ('DGFT') introduced the online Deemed Exports Application Module: - Trade Notice no. 12/2021-22 dated 28 July 2021**

The DGFT introduced the online Deemed Exports Module on the DGFT website as a part of IT Revamp for receiving applications, the following applications are required to be submitted online through the importer/exporter's dashboard on the DGFT Website:

- i) Refund of Terminal Excise Duty (TED)
- ii). Grant of Duty Drawback as per AIR and

### iii). Fixation of Brand Rate for Duty Drawback

The members of trade can login to the portal, fill in the requisite details in the form, upload the necessary documents along with the application after paying the requisite fee. The system will generate a file number which can be used for tracking purposes through the portal. The RAs would issue online deficiency letters calling for any additional information/document required and the exporter would be able to reply to the deficiency letters online only.

## **14. Extension of filings of QPR / APR by SEZ Units / EOUs / Developers: - Instruction by Dept. of Commerce**

In view of challenges posed by pandemic, the Commerce Ministry has allowed further extension of filing of APR's and QPR's by the SEZ Units, EOUs and Developers up to 31 December 2021.

## **15. The Commerce and Industry Minister Piyush Goyal said that Government is looking at further simplification of SEZ ecosystem: - News report**

The Commerce and Industry Minister Piyush Goyal said the ministry is looking to further simplify the ecosystem of special economic zones (SEZs) to make them more attractive for investors and increase exports. He also said that the department of commerce and revenue are in discussion that whether SEZ units can be allowed to do business outside these zones in India i.e. under DTA. SEZs have urged the government to permit them to sell their products in the domestic market without payment of customs duties. There is a work plan under preparation for the USD 400 billion export target for this fiscal.

[https://www.financialexpress.com/industry/looking-at-further-simplification-of-sez-ecosystem-commerce-and-industry-minister-piyush-goyal/2283051/lite/?utm\\_source=Whatsapp&utm\\_medium=social&utm\\_campaign=Whatsapp](https://www.financialexpress.com/industry/looking-at-further-simplification-of-sez-ecosystem-commerce-and-industry-minister-piyush-goyal/2283051/lite/?utm_source=Whatsapp&utm_medium=social&utm_campaign=Whatsapp)

## **16. Cabinet has approved Covid relief stimulus package: - News report**

The Union Cabinet has approved the Covid-relief stimulus package announced by the Finance minister, Nirmala Sitharaman few days back. FM approved schemes include a Rs 3.03 lakh revamped scheme for the power distribution sector, Rs 1.5 lakh crore additional credit for small and medium businesses, and export insurance cover of Rs 1.22 lakh crore.

Further, State power distribution companies will receive grants each year under the power distribution scheme when they achieve the milestones agreed for the previous fiscal. Further, the scheme also includes more funds for the healthcare sector, loans to tourism agencies and guides, and waiver of visa fees for foreign tourists. They also include more funds for the healthcare sector, loans to tourism agencies and guides, and waiver of visa fees for foreign tourists.

<https://economictimes.indiatimes.com/news/economy/finance/cabinet-clears-covid-relief-stimulus-package/articleshow/84008395.cms>



## **17. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2021 issued:- Notification No. IBBI/2021-22/GN/REG075 dated 14 July 2021**

The Insolvency and Bankruptcy Board of India (IBBI) on 14 July 2021 has issued the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2021 to further amend the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

The key amendments have been made are as under: -

- In Regulation 3(1), for the words “a resolution professional”, the words “an interim resolution professional or a resolution professional, as the case may be,” have been substituted. Through such amendment, an insolvency professional shall now be eligible to be appointed as an interim resolution professional (in addition to resolution professional) for a CIRP of a corporate debtor if he and all partners and directors of the insolvency professional entity of which he is a partner or director, are independent of the corporate debtor.
- Regulation 3(3) has been substituted to provide that an interim resolution professional or a resolution professional, who is a director or a partner of an insolvency professional entity, shall not continue as the interim resolution professional or resolution professional, as the case may be, in a corporate insolvency resolution process, if the insolvency professional entity or any other partner or director of such insolvency professional entity represents any other stakeholder in that corporate insolvency resolution process.
- In Regulation 4, for the words "interim resolution professional", the words "interim resolution professional or the resolution professional, as the case may be," have been substituted. With effect to this amendment, power has been granted to resolution professionals (in addition to an interim resolution professional) to access the books of account, records and other relevant documents and information, to the extent relevant for discharging his duties under the Code.
- A new regulation 4B has been added on Disclosure of change in name and address of corporate debtor. As per the said regulation, The Insolvency Professional shall disclose all the former name(s) and registered office address(es) changed during the period of 2 years preceding the commencement date of insolvency along with current name and address in every communication, record or any other documents.

**Contact Us: -**

Rahul Garg

Partner

Corporate Tax & Regulatory

[garg.rahul@asire.in](mailto:garg.rahul@asire.in)

+91 9891091307

Tax | Regulatory | M&A

[www.asire.in](http://www.asire.in)

**Office Addresses: -**

**Indian Offices**

**Gurgaon**

529, Fifth Floor, Tower

B-4, Spaze i-Tech Park,

Sector-49 Sohna Road,

Gurgaon 122018,

Haryana

**Delhi**

R-89, Greater Kailash-1

New Delhi-110048

**Bangalore**

FF1, Nasco Olives

Nagayanapalya

Maruthi Sevenagar-560033

**Overseas Offices:**

**United Kingdom**

The Minister Building

21 Mincing Lane, London

EC3R 7AG