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INCOME TAX



MUTUAL AGREEMENT PROCEDURE

The CBDT has issued MAP guidance for the benefit of taxpayers, tax practitioners, tax authorities, and CAs of India and of treaty partners. Mutual Agreement Procedure (MAP) is an alternate tax dispute resolution mechanism available to the taxpayers under the DTAAAs for resolving disputes giving rise to double taxation or taxation not in accordance with DTAAAs. MAP can help in relieving double taxation either fully or partially. Almost all DTAAAs entered into by India have the MAP Article and it provides an additional dispute resolution mechanism to taxpayers in addition to those available under the domestic laws of India. A taxpayer can request for assistance under MAP regardless of the remedies provided under the Indian domestic law.

AMENDMENT IN PAN RULES

The CBDT has issued Notification and amended Rule 114 of Income Tax Rules, 1962 and inserted rule Class or classes of person to whom provisions of section 139A shall not apply.

114AAB. (1) The provisions of section 139A shall not apply to a non-resident, not being a company, or a foreign company, (hereinafter referred to as the non-resident) who has, during a previous year, made investment in a specified fund if the following conditions are fulfilled, namely:—

(i) the non-resident does not earn any income in India, other than the income from investment in the specified fund during the previous year;

(ii) any income-tax due on income of non-resident has been deducted at source and remitted to the Central Government by the specified fund at the rates specified in section 194LBB of the Act; and (iii)

the non-resident furnishes the following details and documents to the specified fund, namely:— (a) name, e-mail id, contact number; (b) address in the country or specified territory outside India of which he is a resident; (c) a declaration that he is a resident of a country or specified territory outside

India; and (d) Tax Identification Number in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the non resident is

identified by the Government of that country or the specified territory of which he claims to be a resident.

FACELESS ASSESSMENT SCHEME

The CBDT has notified the assessment under this Scheme shall be made as per the following procedure, namely:

- ❖ The National e-Assessment Centre shall serve a notice on the assessee under sub-section (2) of section 143, specifying the issues for selection of his case for assessment.
- ❖ The National e-assessment Centre shall assign the case selected for the purposes of e-assessment under this Scheme to a specific assessment unit in any one Regional e-assessment Centre through an automated allocation system.
- ❖ where a case is assigned to the assessment unit, it may make a request to the National e-assessment Centre for
 - (a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
 - (b) conducting of certain enquiry or verification by verification unit; and
 - (c) seeking technical assistance from the technical unit
- ❖ where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National e-assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit

FACELESS ASSESSMENT SCHEME

- ❖ The National e-assessment Centre shall send the report received from the verification unit or the technical unit, based on the request referred to in clause (viii) or (ix) to the concerned assessment unit.
- ❖ The assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in clause (xiii) is received from the National e-Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income, or sum payable by, or sum refundable to, the assessee as per his return or modifying the said income or sum, and send a copy of such order to the National e-assessment Centre.
- ❖ The assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any

FACELESS ASSESSMENT SCHEME

- ❖ The National e-assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to, –
 - (a) finalise the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or
 - (b) provide an opportunity to the assessee, in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
 - (c) assign the draft assessment order to a review unit in any one Regional e-assessment Centre, through an automated allocation system, for conducting review of such order

- ❖ The review unit shall conduct review of the draft assessment order, referred to it by the National e-assessment Centre whereupon it may decide to, –
 - (a) concur with the draft assessment order and intimate the National e-assessment Centre about such concurrence; or
 - (b) suggest such modifications, as it may deem fit, to the draft assessment order and send its suggestions to the National e-assessment Centre.

- ❖ The National e-assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in sub-clause (a) or sub-clause (b) of clause (xvi), as the case may be

FACELESS ASSESSMENT SCHEME

- ❖ The National e-assessment Centre shall, upon receiving suggestions for modifications from the review unit, assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system
- ❖ The assessment unit shall, after considering the modifications suggested by the review unit, send the final draft assessment order to the National e-assessment Centre
- ❖ The National e-assessment Centre shall, upon receiving final draft assessment order, follow the procedure laid down in sub-clause (a) or sub-clause (b) of clause (xvi), as the case may be; (xxii) the assessee may, in a case where show-cause notice under sub-clause (b) of clause (xvi) has been served upon him, furnish his response to the National e-assessment Centre on or before the date and time specified in the notice or within the extended time, if any
- ❖ The National e-assessment Centre shall,- (a) in a case where no response to the show-cause notice is received, finalise the assessment as per the draft assessment order, as per the procedure laid down in sub-clause (a) of clause (xvi); or (b) in any other case, send the response received from the assessee to the assessment unit

FACELESS ASSESSMENT SCHEME

- ❖ The assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the National e-assessment Centre
- ❖ The National e-assessment Centre shall, upon receiving the revised draft assessment order, –
 - (a) in case no modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, finalise the assessment as per the procedure laid down in sub-clause (a) of clause (xvi); or
 - (b) in case a modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the assessee, by serving a notice as per the procedure laid down in sub-clause (b) of clause (xvi);
 - (c) the response furnished by the assessee shall be dealt with as per the procedure laid down in clauses (xxii), (xxiii), and (xxiv)
- ❖ The National e-assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act

FACELESS APPEALS

The CBDT will launch faceless appeals beginning 25th September, 2020 as part of the process to reduce physical interface between tax officers and taxpayers. Appeals will be allotted at random to officers, taxpayers will not need to visit offices or meet any officials, the identities of the officers deciding the appeal will remain unknown, the appellate decision will be team-based and reviewed. Exceptions to Faceless Appeal: Cases relating to Appeal includes, serious frauds, major tax evasion, sensitive and search matters. International Taxation and Black Money Act & Benami Property.

ALL ASSESSMENT PASSED THROUGH NeSC

The CBDT has issued order to ensure that all the assessment orders are passed through the Faceless Assessment Scheme, 2019, the Board in exercise of powers under section 119 of the Income-tax Act, 1961 hereby directs that all the assessment orders shall hereafter be passed by National e-Assessment Centre through the Faceless Assessment Scheme, 2019, except as provided hereunder:-i) Assessment orders in cases assigned to Central Charges. ii) Assessment orders in cases assigned to International Tax Charges. Any assessment order which is not in conformity with Para-2 above, shall be treated as non-est and shall be deemed to have never been passed.

POWER OF SURVEY U/S 133A

The Central Board of Direct Taxes, in exercise of powers under section 119 of the Income-tax Act, 1961 hereby directs that the officers posted in Directorates of Investigation (Investigation Wing) and Commissionerates of TDS, only and exclusively shall act as “Income- tax Authority” for the purposes of power of survey under section 133A of the Income-tax Act. The competent authority for approval of such survey action u/s133A of the Act shall henceforth be DGIT (Inv) for investigation wing and Pr.CCIT/CCIT (TDS) for TDS charges, as the case may be.

EXEMPTION TO PENSION FUND

The CBDT outlined various conditions under which pension funds can avail exemptions from income tax on income from investments in infrastructure companies via debt or equity. Accordingly, pension funds cannot undertake commercial activity in India or overseas, should be regulated by laws of the country, province, state or local body where it is based and use the proceeds from investments to solely provide pensions or benefits on the lines of social security to its beneficiaries.

SPECIFIED FINANCIAL TRANSACTION (SFT)

The Government has proposed to widen the scope and reduce the threshold of various transactions to further include even white good purchases, property tax payment, medical and life insurance premium and even hotel payments. The Finance Ministry has also proposed new measures to ensure better compliance by expanding the scope of Reporting of following Transactions and reporting the same in New Form 26AS:

- ❖ Payment of Educational Fee/Donations above Rs. 1 lakh per annum
- ❖ Electricity Consumption Bill of more than Rs 1 lakh per annum
- ❖ Domestic business class air travel or foreign travel
- ❖ Payment to Hotel above Rs 20,000
- ❖ Purchase of jewellery, white goods, paintings, marble, etc above Rs 1 lakh
- ❖ Deposits/credits in current account above Rs 50 lakh
- ❖ Deposits or credits in non-current account above Rs 25 lakh
- ❖ Payment of property tax above Rs 20,000 per annum
- ❖ Life insurance premium above Rs 50,000
- ❖ Health insurance premium above Rs 20,000
- ❖ Share transactions, demat account, bank lockers

The government has also proposed to deduct TDS/collect TCS at higher rates for those who do not file Income Tax Returns (ITR). There is also a proposal for compulsory filing of ITR by those who have their bank transactions above Rs. 30 lakh, all professionals, businesses having turnover above Rs. 50 lakh and payment of rent above Rs. 40,000.

GST/CUSTOM



PIL FOR MASK AND HAND SANITISERS

The Delhi High Court has dismissed a Public Interest Litigation(PIL) asking the court to classify mask and sanitisers as essential commodities and reduce GST on alcohol-based sanitisers to either 12% or 5%. Dismissing the plea, the high court said that masks and sanitisers are now easily available and there is no need to control such commodities or to regulate supply. The court also noted that the government has removed face masks and alcohol-based sanitizers from under the essential commodities category and is not regulating their prices anymore.

GST REGISTRATION THROUGH AADHAAR

The CBIC has issued Notification and amended Central goods and services Rules 2017 .Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from 21st August, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under subrule (4), whichever is earlier. Provided that where a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number, the registration shall be granted only after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25.

GUIDELINE FOR SUMMONS

The Directorate General of GST Intelligence (DGGI) has issued broad guidelines to officers not to resort to excesses. Top management of big firms, including PSUs, must not be issued summons in the first instance during probe unless the evidence suggest otherwise. As an enforcement agency, it is imperative for the DGGI to maintain a balance wherein investigations should proceed strictly, as per law, while simultaneously ensuring that no excesses are meted out to the taxpayers and their sensibilities are respected.

MANUFACTURING OPERATION IN WARE HOUSE

The CBIC has issued Manufacture and Other Operations in Special Warehouse Regulations, 2020 (MOOSWR, 2020) vide Notification No. 75/2020-Customs (N.T.) dated 17th August, 2020. These regulations allow manufacturing and other operations in a special warehouse licensed under section 58A of the Customs Act, 1962. MOOSWR, 2020 and this Circular cover the procedures and documentation for a section 58A warehouse, operating under Section 65 of the Act, in a comprehensive manner including application for seeking permission under section 65, provision of execution of the bond and security by the licensee, receipt, storage and removal of goods, maintenance of accounts, conduct of audit etc.

MISCELLANEOUS



Miscellaneous

EXTENTION OF AGM

The MCA issued General Circular and clarified that it is stated that this Ministry had inter-alia, clarified vide General Circular No. 20/2020, dated 05.05.2020 [G.C. 20/2020] regarding holding of AGM through video conferencing (VC) or other audio visual means (OAVM) or the calendar year 2020. In addition, the companies which are unable to hold their AGMs were advised to prefer applications for extension of AGM at a suitable point of time before the concerned Registrar of Companies under section 96 of the Act. In view of the above, it is once again reiterated that the companies which are unable to hold their AGM for the financial year ended on 31.03.2020, despite availing the relaxations provided in the G.C. 20/2020 ought to file their applications in form No. GNL-1 for seeking extension of time in holding of AGM for the financial year ended on 31.03.2020 with the concerned Registrar of Companies on or before 29.09.2020. The Registrars of Companies are hereby advised to consider all such applications (filed in Form No. GNL-1) liberally in view of the hardships faced by the stakeholders and to grant extension for the period as applied for (upto three months) in such applications.

AUDITING GUIDANCE SRE 2410

The ICAI vide announcement dated August 07, 2020 has issued auditing guidance which contains key considerations for auditors while performing review of financial information in accordance with SRE 2410 given the unique challenges that may arise in the current environment due to COVID 19.

HANDLING OF COMPLAINS

The SEBI has issued circular for Investor grievances redressal mechanism - Handling of SEBI Complaints Redress System (SCORES) complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies.

This circular lays down the procedure for handling complaints by the stock exchanges as well as standard operating procedure for actions to be taken against listed companies for failure to redress investor grievances.

SETTLEMENT SCHEME

The Securities Exchange Board of India (SEBI) has introduced a new scheme vide Public Notice dated 27th July, 2020 called Settlement Scheme (“the Scheme”) in terms of Regulation 26 of SEBI (Settlement Proceedings) Regulations 2018. The purpose of the Scheme is to provide a one-time settlement opportunity to the entities that have executed trade reversals in the stock options segment of BSE during the period from April 1, 2014 to September 30, 2015 against whom any proceedings are pending. The one-time settlement period as per the Scheme, shall commence on August 01, 2020 and end on October 31, 2020.

COMPLIANCE DATES FOR AUGUST & SEPTEMBER, 2020

20th August	File GSTR-3B Return for the month of July, 2020.(Turnover above 5 crore)
31st August	File ITC-04 for Q4 of 2019-20 and Q1 of 2020-21.
31st August	File GSTR-5 for the month of June,2020.
31st August	File GSTR 04 for the year 2019-20
31st August	File LUT for the year 2020-21.
31st August	File ITC-03 for the year 2020-21.
31st August	File GSTR-07 for the Month of June,2020.
31st August	File GST refund Application due between 20.3.2020 to 29.8.2020.
31st August	File GSTR-5A for the month of June,2020.
31st August	File GSTR-6 for the month of June,2020.

DISCLAIMER : Although due care has been taken while compiling the above details, yet the author carries no responsibility for any inadvertent misquoting. Please check the relevant source before relying on any of the compilations. The notification and circulars covered under the compilation are chosen which are considered important and not all, issued under the relevant statute

COMPLIANCE DATES FOR AUGUST & SEPTEMBER, 2020

31st August	File GSTR-8 for the month of June,2020.
31st August	Payment of Property Tax in Delhi for the year 2020-21.
7th September	Deposit TDS/TCS for the month of August,2020.
11th September	File GSTR-1 Return for the month of August, 2020.
12th September	File GSTR-3B Return for the month of May, 2020.(Turnover Below 5 crore) for specified states
15th September	File GSTR-3B Return for the month of May, 2020.(Turnover Below 5 crore) for specified states.
15th September	Deposit of ESI for the month of August, 2020.
15th September	Deposit of Provident Fund for the Month of August, 2020.
15th September	Payment of 2nd Installment of Advance Tax for the AY 2021-22.

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A close-up photograph of a white card with the words "Thank you" written in a cursive script using a purple marker. The card is placed on a light-colored surface. To the left of the card is a bouquet of small purple flowers with green foliage. To the right of the card is a black pen with a white textured grip. Further to the right, a decorative string of red and white beads is visible, with a loop of the string resting on the surface.

Thank
you