



ARORA PREM & ASSOCIATES

Chartered Accountants

Newsletter – May 2020



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Dear Reader,

Hope this newsletter finds you, your family and colleagues safe.

As we step into the 3rd phase of the lockdown due to COVID 19, the social and economic scenario of the world and the country in general seems little fragile. The unforeseen scenarios have thrown us challenges as well as new thoughts to live our social life and new opportunities for business. As they say that “Change is the only Constant”, we need to prepare and equip ourselves for the new order.

In the last newsletter for April 2020, we captured the measures taken by the Governments in India till 20th April 2020 to provide relief from Covid 19 on monetary and compliance perspective. The current newsletter covers such measures taken between the period 21st April 2020 to 30th April 2020 and also a compliance chart for the general compliances to be met in the month of May 2020 with regard to GST, Income Tax, Companies Act, PF & ESI laws.

For any detailed and specific query, request an email and /or call for further discussion.

With Best Regards

Arora Prem & Associates
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GOODS & SERVICE TAX UPDATES

Form PMT-09 effective from April 21, 2020

There have been few technical glitches at the GST portal when the GST was rolled out. Taxpayer were not properly educated and aware of the GSTN and at times deposited tax or fees or interest or penalty under wrong head.

Once the taxpayer pays the challan, the payment gets credited in that head and the same can be utilized in settling their relevant output liabilities after adjusting with the Input Tax credit. But in some cases where the challan is wrongly paid or the amount is paid under the wrong head, it can't be used against discharging the liabilities of that head due to which the taxpayers need to file another challan.

In such a scenario, the tax payer has a right to claim the refund of the amount wrongly paid by filing a refund application in form RFD-01 choosing the option at the time of refund application of "Excess balance in electronic cash ledger". Claiming refund is a long process and many a times the working capital of the taxpayers gets blocked.

The CBIC has introduced Form PMT-09 (a challan) for shifting wrongly paid amount. This enables a registered taxpayer to transfer any amount of tax, interest, penalty, etc. that is available in the [electronic cash ledger](#), to the appropriate tax or

cess head under [IGST, CGST and SGST](#) in the electronic cash ledger. The form has been made effective from 21st April 2020.

Service Tax dept empowered to carry audit & seek information w.r.t. Service Tax under GST regime

Aargus Global Logistics (P.) Ltd. v. Union of India - [2020] 116 taxmann.com 381 (Delhi)

With the advent of GST regime, the Service Tax Act was repealed, and a general understanding was applied that the rule 5A of the Service Tax Rules does not survive enactment of CGST Act.

The Delhi High Court in the judgement cited above has observed that the rule 5A empowers officer authorised by the Commissioner who shall have an access to taxpayer's premises registered under the erstwhile Service tax Act for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue. Also, it obliges every taxpayer to furnish the information and documents for the same.

The Honourable High Court held that the Service Tax department was empowered to carry audit and seek information under the GST regime. Thus, the assessee shall be obliged to provide all the records prepared by it in the normal course of its business.

GST on Directors remuneration.

The Authority of Advance Ruling, Karnataka in the case of ***M/s Alcon Consulting Engineers (India) Pvt Ltd - AR No. KAR ADRG 83/2019 dated 25.09.2019***, held that the remuneration paid to the directors is subject to GST under reverse charge and is covered under entry 6 of the notification 13/2017-Central Tax dated 28-06-2017 and recently in the case of ***M/s. Clay Craft India Pvt. Ltd. - AR NO. RAJ/AAR/2019-20/33 Dt:-20/02/2020*** also held that Director is not an employee of the Company and hence GST is payable on remuneration paid to Directors.

The issue was raised under the erstwhile Service Tax Regime also, when the department took the stand that, Directors of Company are required to pay Service Tax on the services rendered to the Company. However, the Board later came out with the clarification that since Whole Time Directors are employees of the Company and hence there is no Service Tax Liability on remuneration paid to Whole Time Directors.

The ruling given by the AAR doesn't seem to be the true intent of the legislature and the GST Council is expected to come with a clarification on the matter.

INCOME TAX UPDATES

CBDT re-issues FAQs on Vivad se Vishwas Scheme

Circular no 9/2020, dated 22-04-2020

The 'Vivad se Vishwas' Scheme was announced during the Union Budget, 2020, to provide for dispute resolution in respect of pending income tax litigation. Pursuant to the Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 (hereinafter called ***Vivad se Vishwas***) was introduced in the Lok Sabha on 5th of February 2020 and passed by it on 4th of March 2020. The objective of ***Vivad se Vishwas*** is to *inter alia* reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

CBDT had issued, Circular no. 7 of 2020 dated 04-03-2020, clarifying queries of the taxpayers of "Direct Tax Vivad se Vishwas Bill, 2020". However, those clarifications were subject to approval and passing of "Direct Tax Vivad se Vishwas Bill, 2020" by the Parliament and receiving assent of the President.

The Bill has since been passed by the Parliament and has also received the assent of the Hon'ble

President of India and has now been enacted as The Direct Tax Vivad Se Vishwas Act, 2020.

The 55 questions contained in the CBDT circular no 7 of 2020, have been modified vide Circular No. 9 of 2020 dated 22.04.2020 a new revised (FAQs) on the 'Direct Tax Vivad se Vishwas Act, 2020' has been issued.

The due date for filing of quarterly TDS/TCS statement is extended.

Circular No: NSDL/TIN/2020/006, dated 20th April 2020

The due dates prescribed or notified under the Income Tax Act which fall during the period from March 20, 2020 to June 29, 2020 have been extended to June 30, 2020 and consequently the revised timeline to furnish the TDS/TCS statement for quarter four for financial year 2019-20 is extended up to June 30, 2020.

CBDT defers GST & GAAR reporting in Tax Audit Report to 31st March 2021

Circular no. 10/2020, dated 24-04-2020

The (CBDT) considering the prevailing situation due to COVID-19 pandemic across the country has deferred the reporting under clause 30C and clause 44 of the Tax Audit Report and has kept the clauses in abeyance till 31st March 2021.

The reporting under clause 30C & clause 44 kept in abeyance earlier also till 31st March 2019 vide *Circular No. 6/2018 dated 17.08.2018*, which was subsequently extended to 31.03.2020 vide *Circular No. 9/2019*.

Applicability of Tax Collected at Source (TCS) on all Forex Transactions under LRS w.e.f. 1st Oct '20

The Finance Act 2020 has introduced a provision of TCS on all forex transactions under Liberalised Remittance Scheme (LRS) effective from 1st Oct'2020 whereby TCS at 5% shall be applicable on aggregate forex transactions under LRS exceeding INR 7 Lakhs in a financial year.

However, the LRS remittances towards pursuing overseas education shall attract TCS at 0.5% instead of 5%, if the amount remitted is obtained through a loan from a financial institution.

For instance, if the total remittance under LRS in a financial year is INR 10,00,000, TCS at 5% will be applicable on INR 3,00,000 (INR 10,00,000 - INR 7,00,000) and tax collected will be INR15,000.

It may be noted that if the amount remitted for pursuing overseas education is Owned

Funds and not a loan availed, then TCS at 5% and not 0.50% shall be applicable on remittances exceeding INR 7 lakhs in a financial year.

On the remittances to Foreign Tour Operators through the Bank, TCS @ 5% on the total amount remitted shall be applicable and the amount remitted will not be subsumed under the threshold limit of INR 7 Lakhs mentioned above. For instance, if the amount remitted is INR 5,00,000, TCS at 5% will be applicable and tax collected will be INR 25,000.

The provision for TCS on all forex transactions under LRS shall be applicable from 1st October 2020, however for the purpose of tracking the threshold limit of INR 7 lakhs, all forex transactions under LRS (except remittances to Foreign tour operators done through the Bank) made from April 1, 2020 would be considered.

TCS shall be applicable even if foreign exchange facility is availed in Cash withdrawal / Forex cards.

The provision will not apply in case the remitter is liable to deduct tax at source under any other provision of the Act and the amount has been deducted and if the

remitter is Government or any another person notified by the Government

The remitter can claim credit for the tax collected by the Bank while filing their tax returns.

Liberalised Remittance Scheme (LRS)

Under this Scheme, all resident individuals, including minors, are allowed to freely remit / avail foreign exchange facility up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both.

CBDT to revise return forms in view of timeline extension

The CBDT in order to facilitate taxpayer to avail full benefits with various timeline extension up to June 30, 2020 granted by the government, has initiated necessary changes in the return forms, so that taxpayers could take benefits of their transactions carried out during the period from 01-04-2020 to 30-06-2020 in the return forms for FY 2019-20.

The modifications will allow taxpayers to avail of the benefits of their investments/transactions made during the months of April-to-June 2020 for the Financial Year 2019-20. The return filing utility after incorporating necessary changes is expected to become operational by May 31, 2020.

CORPORATE LAW UPDATES

Companies whose financial year has ended on Dec 31, 2019 can hold annual general meeting by Sep 30, 2020

General Circular No. 18/2020, Dated 21.04.2020

The Companies Act, 2013 allows a company to hold its AGM within a period of six months (nine months in case of first AGM) from closure of the financial year and not later than 15 months from the last date of AGM.

Considering the challenges faced by Companies in holding Annual General Meeting (AGMs) during Covid-19 pandemic, the MCA has clarified that Companies whose financial year has ended on Dec 31, 2019 can hold annual general meeting within a period of nine months from the closure of the financial year, i.e., by Sep 30, 2020 (instead of 30th June 2020). MCA has also clarified that holding of AGM by Sep 30, 2020 in such cases would not be viewed as violation of the provision of the Companies Act and rule thereunder.

MCA extends due date of filing of e-form NFRA-2

Circular No. 19/2020, Dated 30.04.2020

The Ministry of Corporate Affairs (MCA) has extended the last date of filing of Form NFRA-2 which is required to be filed under rule 5 of the National Financial Reporting Authority Rules, 2018.

As per Rule 5 of the National Financial Reporting Authority Rules, 2018 every Auditor of the Classes of companies specified shall have to file an annual return on or before Nov 30 of every year in Form NFRA-2. MCA vide General Circular no. 19/2020 dated April 30, 2020 has extended the time limit for filing Form NFRA-2 which shall be 210 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA).

National Financial Reporting Authority (NFRA) is an independent regulator to oversee the auditing profession and accounting standards in India under Companies Act 2013.

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OTHERS

SEBI reduces time period for further issue of capital post buy-back to 6 months from existing timeline of 1 year

CircularNo.SEBI/HO/CFD/DCR2/CIR/P/2020/69,

Dated 23.04.2020

In order to enable companies to have relatively quicker access to capital, the SEBI has temporarily relaxed the period of restriction provided in Regulation 24(i)(f) of the Buy-back Regulations. As per the current provision, the minimum time between the expiry of a buy back period and subsequent capital raising should be 1 year. However, the SEBI has vide above mentioned circular reduced time-period for further issue of capital raising after buyback to 6 months from existing period of 1 year, to be considered in line with section 68(8) of the Companies Act, 2013.

The relaxation with respect to buyback norms shall come into force with immediate effect and will be applicable till December 31, 2020.

Banks can issue e-cards against overdraft accounts maintained by individuals

Circular No. DOR. FSD.BC.No.67/24.01.041/ 2019-20, Dated 23.04.2020

The RBI has permitted banks to issue e-cards to natural persons having Overdraft accounts that are

only in the nature of personal loan without any specific end-use restrictions. The e-card shall be issued for a period not exceeding the validity of the facility and shall also be subject to the usual rights of the banks as lenders. The e-card shall be used for domestic transactions only.

Neighboring countries can invest in non-debt instrument of Indian Cos. only through Govt. approval route

**Notification No. [F. No. 01/05/EM/2019-Part (1)],
Dated 24.04.2020**

In a significant change in FDI policy due to outbreak of COVID-19 pandemic, the Ministry of Finance has decided to amend the Foreign Exchange Management (Non-debt Instruments) Rules, 2019. The amendment has made in proviso in rule 6 whereby, prior approval of the Government had been made mandatory for any foreign investment from countries that share land border with the India or the beneficial owner of an investment into India who is situated in or is a citizen of any such country.

Furthermore, it has explicated that, in the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction, such subsequent change in beneficial ownership shall also require government approval.

Disclaimer

This newsletter is meant to be informative summary and in no case be treated as a substitute for a considered legal and business advise. The update / information provided herein is done with the understanding that we are not rendering legal services on the subject and hence the information contained herein should not be construed as legal advice or opinion.

We welcome your comments & suggestions. For any comments, clarification and suggestions, please contact us at.

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THANK YOU

Summarized compliance chart for the month of May 2020

S. No.	Nature of Compliance	Nature of Compliance in Detail	Compliance Period	Prescribed due date	Revised/ Extended due date	Important Notes
Income Tax						
1	<u>TDS/TCS Liability Deposit</u>	Payment of TDS/TCS liabilities for the previous month	April-2020	07-May-20	NA	The due date of payment is not extended, however the rate of interest on delayed payment, if any has been reduced from 12% and 18% to 9%, if payment made before 30th June 2020.
2	<u>Equalization Levy Deposit</u>	Payment of Levy on payment to non-resident service provider for certain specified and notified services.	April-2020	07-May-20	NA	The due date of payment is not extended, however the rate of interest on delayed payment has been reduced from 12% and 18% to 9%, if payment made before 30th June 2020.
3	<u>TDS/TCS Return</u>	Submission of quarterly statement of TCS/TDS for the period Jan - Mar 20	Quarter 4 March 2020	31-May-20	30-Jun-20	CBDT vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 dated 31-03-2020.
4	<u>Form No 61A(SFT)</u>	Statement of financial transaction to be furnished under s/s (1) of sec 285BA of IT Act,1961.	FY 2019-20	31-May-20	30-June-20	CBDT vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 dated 31-03-2020.
Goods & Service Tax						
5	<u>GSTR-7</u>	Return to be filed where TDS deducted under GST.	April-2020	10-May-20	30-Jun-20	Notification number- 35/2020 – Central Tax dated 03.04.2020
6	<u>GSTR-8</u>	Return to be filed where TCS collected under GST.	April-2020	10-May-20	30-Jun-20	Notification number- 35/2020 – Central Tax dated 03.04.2020
7	<u>GSTR-1</u>	Returns to be filed by the registered person with an aggregate turnover of more than 1.50 crores.	April-2020	11-May-20	30-Jun-20	Notification number- 33/2020 – Central Tax dated 03.04.2020
8	<u>GSTR -6</u>	Filing of return by Input Service Distributors.	April-2020	13-May-20	30-Jun-20	Notification number- 35/2020 – Central Tax dated 03.04.2020

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9	<u>GSTR -5</u>	Return to be filed by Non-Resident Taxable Person for the previous month.	April-2020	20-May-20	30-Jun-20	Notification number- 35/2020 – Central Tax dated 03.04.2020
10	<u>GSTR -5A</u>	Return to be filed by OIDAR Service Providers for the previous month.	April-2020	20-May-20	30-Jun-20	Notification number- 35/2020 – Central Tax dated 03.04.2020
11	GSTR-3B	Return to be filed where the aggregate turnover is more than 5 Crores in the previous month	March-20	20-April-20	05-05-2020 for interest / 24-06-2020 for late fees	Notification number- 31/2020 – Central Tax dated 03.04.2020, due date for Interest is 04.06.2020, post which rate of interest will 9% p.a. if GSTR 3B is furnished up to 24.06.2020. As per Notification number- 32/2020– Central Tax dated 03.04.2020 due date for Late Fees and Penalty is 24.06.2020.
12	<u>GSTR - 3B</u>	Return to be filed where the aggregate turnover is more than 5 Crores in the previous year	April-2020	20-May-20	27-June-20	Notification number- 31/2020 – Central Tax dated 03.04.2020, due date for Interest is 04.06.2020, post which the rate of interest will 9% p.a. if GSTR 3B is furnished up to 24.06.2020. As per Notification number- 32/2020– Central Tax dated 03.04.2020 due date for Late Fees and Penalty is 24.06.2020.
13	<u>GSTR - 3B</u>	Return to be filed where the aggregate turnover is more than 1.5 Crores but up to 5 crores in the previous month	April-2020	22-May-20	30-June 20	Notification number- 31/2020 – Central Tax dated 03.04.2020, due date for Interest is 30.06.2020. As per Notification number- 32/2020– Central Tax dated 03.04.2020 due date for Late Fees and Penalty is 30.06.2020.

14	<u>GSTR - 3B</u>	Return to be filed where the aggregate turnover is up to 1.5 Crores in the previous month	April-2020	22-May-20	06-June-20	Notification number- 31/2020 – Central Tax dated 03.04.2020, due date for Interest is 06.07.2020. As per Notification number- 32/2020– Central Tax dated 03.04.2020 due date for Late Fees and Penalty is 06.07.2020.
Corporate Law						
15	LLP Form 11	Annual returns for LLP's	FY 2019-20	30-May-20	30/09/2020	General Circular No. 11 /2020 dated 24-03-2020, Moratorium period from 1st April to 30th September is given for all document, return, statement etc., required to be filed in the MCA-21. No additional fees will be charged till 30th September 2020.
16	PAS -6	Reconciliation of Share Capital Audit Report on half yearly basis by unlisted public company	2 nd Half of FY 2019-20	30-May-20	30-Sep-20	General Circular No. 16/2019 dated 28-11-2019
Labour Laws						
17	Provident Fund	Due Date for payment of Provident fund contribution for the previous month.	March-2020	15-April-2020	15-May-2020	Date extended through Notification dated 15.04.2020
18	<u>Provident Fund</u>	Payment of Provident fund contribution for the previous month.	April-2020	15-May-20	NA	
19	ESI	Due Date for payment of ESI contribution for the previous month.	March-2020	15-April-2020	15-May-2020	Date extended through Notification dated 15.04.2020
20	<u>ESI</u>	Payment of ESI contribution for the previous month.	April-2020	15-May-20	NA	