

SCV & Co. LLP Chartered Accountants



Editorial



The Ministry of Corporate Affairs has issued a Notification dated 22.10.2019 by which an amendment has been made in the Companies (Appointment & Qualification of the Directors) Rules 2014 whereby a person eligible and willing to be appointed as an

Independent Director is required to apply online for inclusion of his name in the data bank maintained by the Institute of Corporate Affairs at Manesar. The compliance in this regard is to be made by the Independent Director within a period of three months of the commencement of the aforesaid Rules or by an individual who intends to be appointed as an Independent Director in a company after such commencement but before his appointment. Online application is to be made for inclusion of his name in the data bank for a period of one year or five years or for his life time and from time to time as specified in rules till he continues to hold the office of an Independent Director in any company.



Editorial

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Every individual whose name has been so included in the data bank shall apply for the renewal for a further period of one year or five years or for his life time within a period of thirty days from the date of the expiry of the period upto which the name was applied for inclusion in the data bank, failing which, the name of such individual shall stand removed from the data bank of the Institute.

No application for renewal shall be filed by the individual unless he has paid life time fees for inclusion of his name in the data bank. Every individual whose name is so included in the data bank shall pass an online proficiency self assessment test conducted by the Institute of Corporate Affairs within a period of one year from the date of inclusion of his name in the data bank failing which his name shall stand removed from the data bank of the Institute.

Thankfully the Ministry has excluded from the requirement of passing online proficiency self assessment test those individuals who have served for a period of not less than ten years as on the date of inclusion of the name in the data bank as a director or key

managerial personnel in the listed company or in an unlisted company having a paid up share capital of Rs. Ten crores or more. The Ministry has also amended the Companies (Accounts) Rules 2019 whereby a company is now required to include in its Board Report a statement regarding the opinion of the Board with regard to the integrity, expertise and experience (including the proficiency) of the Independent Directors appointed during the year.

It seems the principle of "ease of carrying on business" in India has been given a go by. The plethora of requirements by the regulatory authorities under various laws such as Income-tax, GST, Company Law, etc. are increasing day by day. There seems to be no end to the bureaucratic environment in the country.

I hope you find the contents of this newsletter useful. We would be happy to receive your comments/ suggestions on this initiative and the contents of this newsletter. You may e-mail your views at sachin.vasudeva@scvindia.com.

Happy Reading

S.C. Vasudeva

REGULATORY SNIPPETS

DIRECT TAX



Lalita Aggarwal

Deputy Manager
Tax Advisory Services

(1) Circular No. 17/2019 dated 8th August 2019 – CBDT further enhanced Monetary Limits for filing of Appeal by the department

In supersession of all previous circulars regarding the said matter, the Board vide the aforesaid circular has revised the monetary limits for the Income tax Department for filing of appeals before the under mentioned authorities:

Appeal / SLP before	Tax effect / Monetary limit (Rs.)
Appellate Tribunal	50,00,000
High Court	1,00,00,000
Supreme Court	2,00,00,000

However, the CBDT has further clarified that:

- ⦿ In the case of a composite order having common issues, no appeal shall be filed in respect of any assessment year in which the tax effect is less than the prescribed monetary limit.
- ⦿ In cases where a composite order involves more than one assessee each assessee shall be dealt with separately.
- ⦿ Cross objections already filed and pending appeals below the monetary limit should be pursued for dismissal.

(2) Circular No. 19/2019 dated 14th August 2019 – No communication shall be issued by the Income tax Department without mentioning Document Identification Number (DIN)

In order to maintain transparency in the functioning of the tax administration and proper audit trail of all the communications the CBDT has laid down the parameters specifying the manner in which any communication issued by any income tax authority relating to assessment, appeals, order, statutory or otherwise exemption, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person dealt with. All such communication issued on or after 1st day of October 2019 shall carry a computer generated Document Identification Number (DIN) duly quoted in the body of such communication.

CBDT has also specified exceptional circumstances where the communication may be issued manually but only after recording reasons in writing and with the prior written approval of the Chief Commissioner/ Director General of Income tax concerned.

CBDT has further clarified that-

- ⦿ Any communication which is not in conformity with the above shall be treated as invalid and shall be deemed to have never been issued.
- ⦿ In all the pending assessment proceedings, where notices were issued manually prior to issuance of this Circular, the tax authorities shall identify such cases and shall upload the notices in these cases electronically by 31st October 2019.

(3) Circular No. 22/2019 dated 30th August 2019 – Assessment of Startups

In order to provide hassle-free tax environment to the Start-ups, a series of beneficial announcements have been made from time to time. To give fruitful effect to those announcements, CBDT also issued various circulars/clarifications. CBDT has now consolidated all the circulars/clarifications issued earlier on the captioned matter for the ease of compliance of Start-up entities. The present circular inter alia highlights the following: -

- ⦿ **Simplification of process of assessment of Start-ups** : The circular covers cases under "limited scrutiny", cases where multiple issues including issue of section 56(2)(viib) were involved or cases where Form No.2 was not filed by the Start-up entity. Detailed process of obtaining mandatory approval of the supervisory authorities for conducting enquiry is also laid down by this circular.
- ⦿ **Time limit for Completion of pending assessments of Start-ups** : The time limit for completion of pending assessments has also been specified by CBDT. All cases involving "limited scrutiny" were to be completed preferably by 30th September, 2019 and the other cases of Start-ups are to be disposed off on priority, preferably by 31st October, 2019.
- ⦿ **Procedure for addition made u/s 56(2)(viib) in the past assessment** : Earlier it was provided that the provisions of section 56(2)(viib) of the Act would also not be applicable in respect of assessment made before 19th February, 2019 if a recognised Start-up had filed declaration in Form No. 2. The timelines for disposal of appeals before CIT(Appeals) has also been specified. Further, the addition made under section 56(2)(viib) would also not be pressed in further appeal.
- ⦿ **Income-tax demand** : It has been reiterated by CBDT that outstanding income-tax demand relating to additions made under section 56(2)(viib) would not be pursued and no communication in respect of outstanding demand would be made with the Start-up entity. Other income-tax demand of the Start-ups would not be pursued unless the demand was confirmed by ITAT.
- ⦿ **Constitution of Start-up Cell** : CBDT has also constituted a Start-up Cell on 30th August 2019 to redress grievances and to address various tax related issues in case of start-ups.

(4) Circular No. 14/2019 dated 3rd July 2019 – Taxability of income earned by a non-resident investor from off-shore investments routed through an Alternate Investment Fund

The CBDT has clarified that any income in the hands of the non-resident investor from offshore investments routed through the Category I or Category II AIF, being a deemed direct investment outside India by the non-resident investor, is not taxable in India under section 5(2) of the Act.

It has further been clarified that loss arising from the off-shore investment relating to non-resident investor, being an exempt loss, shall not be allowed to be set-off or carried-forward and set off against the income of the Category I or Category II AIF.

(5) Notification No. 57/2019 dated 9th August 2019 – Multilateral Convention to Implement Tax Treaty related Measures to Prevent Base Erosion and Profit Shifting between India-Paris on exchange of Country-by-Country reports.

The Central Government has notified the Inter-Governmental Agreement for Exchange of Country-by-Country Reports which was entered into by the Government of the Republic of India and Paris and was signed at Paris, France. The effective date of entry into force is 1st October 2019.

(6) Notification No. 55/2019 dated 26th July 2019 – Exemption from furnishing a return of income under subsection (1) of section 139 of the said Act from Assessment Year 2019-20 onwards

The Central Government hereby exempts the non-resident, not being a company or foreign company from furnishing a return of income as per section 139(1) of the Act, who has any income chargeable under the said Act during a previous year from any investment in an investment fund set up in an International Financial Services Centre (IFSC) located in India.

Provided that, any income-tax due on income of the said class of persons should have been deducted at source and remitted to the Central Government by the investment fund at the tax-rate in force as per provisions of section 194LBB of the said Act and there is no other income during the previous year for which the said class of persons, is otherwise liable to file the tax-return.

The exemption from the requirement of furnishing a return of income shall not be available to the said class of persons where a notice under sub-section (1) of section 142 or section 148 or section 153A or section 153C of the said Act has been issued for filing a return of income for the assessment year specified therein.

(7) Notification No. 69/2019 dated 20th September 2019 – New Appendix I (Table of rates at which Depreciation is Admissible) of Income Tax Rules, PART A relating to Machinery and Plant

CBDT vide its notification dated 20th September 2019 has amended the depreciation rates for certain categories of Machinery and Plant as follows:

- (a) Motor cars, other than those used in a business of running them on hire, **acquired on or after the 23rd day of August, 2019 but before the 1st day of April, 2020 and is put to use before the 1st day of April, 2020** – 30% (instead of 15% earlier)
- (b) Motor buses, motor lorries and motor taxis used in a business of running them on hire, **acquired on or after the 23rd day of August, 2019 but before the 1st day of April, 2020 and is put to use before the 1st day of April, 2020** – 45% (instead of 15% earlier)

The substituted rates stated above shall be deemed to have come into force with effect from the 23rd day of August 2019.

(8) Notification No. 59/2019 dated 30th August, 2019- No further submission of documents required for Aadhar Holders while applying for PAN

CBDT vide notification no. 59/2019 dated 30th August 2019 liberalized the documentation requirement as per Rule 114 (Application for allotment of PAN) of the Income tax Rules, 1962 and inserted the following after sub-rule (1) of the Rule 114:

Sub-rule (1A) - Any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN in accordance with sub-section (5E) of section 139A, shall be deemed to have applied for allotment of permanent account number and no additional documents are required to be submitted.

Sub-rule (1B) - Any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under sub-section (1) or sub-section (1A) or sub-section (3) of section 139A to the concerned authorities by intimating his Aadhaar number and he shall not be required to apply or submit any further documents.

The new rules regarding the allotment of PAN and quoting of Aadhaar number instead of PAN are effective from September 1, 2019.

(9) Cost inflation Index for FY 2019-20 notified

The Central government vide notification no. 63/2019 dated 12th September 2019 has notified the cost inflation index for the **financial year 2019-20 as 289**.

(10) Tolerance range for determination of Arm Length Price for FY 2019-20

The Central Government vide its notification no. 64/2019 dated 13th September 2019 has notified that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed 1% of the latter in respect of wholesale trading and 3% of the latter in all other cases, the price at which the international transaction or specified domestic transaction has been undertaken shall be deemed to be the arm's length price for assessment year 2019-20.



INDIRECT TAX



Saurabh Jain

Assistant Manager
Indirect Tax Services



Changes in Rates of GST on Goods

On 30th September 2019, the Central Government vide Notification No. 14/2019-Central Tax (Rate) and Notification No. 14/2019-Integrated Tax (Rate) has changed the GST rates on supply of following goods.

S.No.	Particulars	Old Rate	New Rate
1	Marine Fuel 0.5%(FO)	18%	5%
2	Polypropylene/Polyethylene Woven and Non-Woven Bags and sacks, whether or not laminated, of a kind used for packing of goods	5%/12%/18%	12%
3	Wet grinder consisting of stone as grinder	12%	5%
4	Rail locomotives powered from an external source of electricity or by electric accumulators	5%	12%
5	Other rail locomotives; locomotive tenders; such as Diesel electric locomotives, Steam locomotives	5%	12%
6	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604	5%	12%
7	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)	5%	12%
8	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)	5%	12%
9	Railway or tramway goods vans and wagons, not self-propelled	5%	12%
10	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts	5%	12%



11	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	5%	12%
12	Parts of Slide fasteners	18%	12%
13	Caffeinated Beverages	18%	28%+12% Cess
14	Semi-precious stones, whether or not worked or graded but not strung, mounted or set; semi-precious stones, temporarily strung for convenience of transport	3%	0.25%
15	Synthetic or reconstructed semi-precious stones, whether or not worked or graded but not strung, mounted or set; ungraded synthetic or reconstructed semi-precious stones, temporarily strung for convenience of transport]	3%	0.25%

Exemption on certain goods

On 30th September 2019, the Central Government vide Notification No. 15/2019-Central Tax (Rate) and Notification No. 15/2019-Integrated Tax (Rate), has exempted (i) Tamarind dried and (ii) Plates and cups made up of all kinds of leaves/-flowers/bark from the levy of GST.

Concessional GST rate to petroleum or coal bed methane operations

On 30th September 2019, the Central Government vide Notification No. 16/2019-Central Tax (Rate) and Notification No. 16/2019-Integrated Tax (Rate), has extended concessional GST rate benefit of 5% to petroleum or coal bed methane operations undertaken under specified contracts under the Hydrocarbon Exploration Licensing Policy (HELP) or Open Acreage Licensing Policy (OALP).

Exemption on supply of silver and platinum by nominated agencies

On 30th September 2019, the Central Government vide Notification No. 17/2019-Central Tax (Rate) and Notification No. 17/2019-Integrated Tax (Rate), has exempted supplies of Silver and Platinum by nominated agencies to registered persons under the Scheme for "Export against Supply by Nominated Agency" as prescribed under Notification No. 26/2018 - Central Tax (Rate), dated 31-12-2018.

Exemption on goods supplied to Food & Agricultural Organization of the United Nations for specified

On 30th September 2019, the Central Government vide Notification No. 19/2019-Central Tax (Rate) and Notification No. 18/2019-Integrated Tax (Rate), has exempted all goods supplied to Food & Agricultural Organization of the United Nations (FAO) for execution of specified projects from the levy of GST.

Change in GST rate of certain services

On 30th September 2019, the Central Government vide Notification No. 20/2019-Central Tax (Rate) & Notification No. 19/2019-Integrated Tax (Rate), has made following changes in GST rate of certain services.

- (1) **With respect to hotel accommodation, restaurant service and outdoor catering services, Serial No. 7 of Notification No. 11/2017-Central Tax (Rate) dated 28th June 2017 has been substituted with the revised description and GST rates. The said revised description and GST rates have been summarised as follows:**

Description of Service	GST Rate
(i) Supply of Hotel Accommodation having tariff between Rs. 1,001 to Rs. 7,500 per unit per day	12%
(ii) Supply of Restaurant Service other than at specified premises ^[Refer Note ii]	5% ^[Refer Note ii]
(iii) Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.	5% ^[Refer Note iii]
(iv) Supply of outdoor catering, at premises other than specified premises provided by any person other than- (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	5% ^[Refer Note iii]
(v) Composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than 'specified premises' provided by any person other than- (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b)) suppliers located in 'specified premises'.	5% ^[Refer Note iii]
(vi) Accommodation, food and beverage services other than (i) to (v) above	18%

Notes:

- (i) 'Specified premises' means premises providing 'hotel accommodation' services having declared tariff of any unit of accommodation above Rs. 7,500/- per unit per day or equivalent.
- (ii) Provided that credit of input tax charged on goods and services used in supplying the service has not been taken

- (2) **Applicable rate of GST on leasing or rental of motor vehicles shall be same rate of tax as applicable on supply of like goods involving transfer of title in goods (With ITC)**
- (3) **Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both shall be taxed at 12%.**

(4) GST on Job work:

- (i) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 shall be taxed at 1.5%.
- (ii) Services by way of job work in relation to bus body building shall be taxed at 18%.
- (iii) A residual entry for services by way of job work namely S. No. 26(id) has been inserted. The job work services under the said entry shall be taxed at 12%.

GST Exemption on certain services

On 30th September 2019, the Central Government vide Notification No. 21/2019-Central Tax (Rate) and Notification No. 20/2019-Integrated Tax (Rate), has exempted supply of following services from GST:

- (i) Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India. [Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.]
- (ii) Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.
- (iii) Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.
- (iv) Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
- (v) Services by way of transportation of goods by an aircraft and vessel from customs station of clearance in India to a place outside India has been extended till 30.09.2020.
- (vi) Bangla Shasya Bima (BSB) crop insurance scheme of West Bengal Government.
- (vii) Services provided by intermediary when location of both supplier and recipient is outside India subject to fulfilment of specified conditions.

Bringing certain services under reverse-charge mechanism and changes in an existing entry

On 30th September 2019, the Central Government vide Notification No. 22/2019-Central Tax (Rate) and Notification No. 21/2019-Integrated Tax (Rate), has notified following services for which tax shall be paid under reverse-charge mechanism:

- (i) Services provided by way of renting of a motor vehicle provided to a body corporate by any person other than a body corporate, paying GST at the rate of 5% on renting of motor vehicles with input tax credit only of input service in the same line of business.

(ii) Services of lending of securities under Securities Lending Scheme, 1997 of Securities and Exchange Board of India to Borrower (a person who borrows the securities under the Scheme through an approved intermediary of SEBI) by Lender (a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI).

With respect to supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act 1957 relating to original literary works to a publisher, the author has been given an option to pay GST under forward-charge mechanism after filing a declaration with the jurisdictional commissioner of exercising the said option.

Rescinding special procedure prescribed for payment of taxes in case of supply of development right

On 30th September 2019, the Central Government vide Notification No. 23/2019-Central Tax (Rate) and Notification No. 22/2019-Integrated Tax (Rate) has notified that special procedure prescribed for payment of taxes in case of supply of development right services shall not be applicable and will be rescinded for development right services supplied on or after April 1, 2019.

Widening applicability of reverse-charge mechanism on supply of cement

On 30th September 2019, the Central Government vide Notification No. 24/2019-Central Tax (Rate) and Notification No. 23/2019-Integrated Tax (Rate) has widened the applicability of reverse charge on cement supplied by unregistered supplier to promoters. Now, reverse charge will be applicable on the goods 'Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975)' supplied by unregistered supplier to promoter without any condition or limit.

Grant of alcoholic liquor licence by State Governments to be outside the purview of GST

On 30th September 2019, the Central Government vide Notification No. 25/2019-Central Tax (Rate) and Notification No. 24/2019-Integrated Tax (Rate) has provided that service by way of grant of alcoholic liquor licence by the State Governments, against consideration in the form of licence fee or application fee or by whatever name it is called shall be treated neither as a supply of goods nor a supply of service.

Excluding Manufacturers of Aerated Water from Composition Scheme

On 30th September 2019, the Central Government vide Notification No. 43/2019-Central Tax has excluded manufacturers of aerated water from availing of the benefit of Composition Scheme by amending the Notification No. 14/2019-Central Tax, dated 7th March, 2019.

Amendment in Place of Supply provisions relating to Pharmaceutical Research

On 30th September 2019, the Central Government vide Notification No. 04/2019-Integrated Tax, has notified that the place of supply for supply for research and development services related to pharmaceutical sector shall be the place of effective use and enjoyment of a service, i.e., recipient of services. The place of supply of services shall be the location of the recipient of services subject to fulfilment of the conditions that they are provided as per a contract between the service provider located in taxable territory, service recipient located in non-taxable territory, the payment for such service has been received by the supplier of service in convertible foreign exchange (or in Indian rupees wherever permitted by the Reserve Bank of India) and the supplier of service and the recipient of service are not merely establishments of a distinct person.

Changes in Compensation Cess Rate

On 30th September 2019, the Central Government vide Notification No. 02/2019-Compensation Cess Rate, has notified the following changes in Compensation Cess rates:

- (i) Cess at the rate of 12% has been levied on caffeinated beverages
- (ii) For entry in column (3) under S. No. 42 of Notification No. 1/2017-Compensation Cess (Rate) dated 28th June, 2017, the entry "Motor vehicles for the transport of not more than 13 persons, including the driver, other than the vehicles of the description mentioned in S. No. 50 and 51", has been substituted.
- (iii) Exemption from compensation cess on cars for physically handicapped persons has been restricted to persons suffering from orthopaedic physical disability only and that too for vehicles of engine capacity not exceeding 1200 cc in case of PNG / CNG vehicles and 1500 cc in case of Diesel vehicles.

Note: All the above notifications shall come into force with effect from 1st October 2019.



CORPORATE ADVISORY



Aditi Mittal

Assistant Manager
Corporate Advisory Services

(1) Amendment in Companies (Share Capital and Debentures) Rules, 2014

MCA has amended the Companies (Share Capital and Debentures) Rules, 2014 vide its notification no. G.S.R. 574 (E) dated 16.08.2019. The notification shall come into force on the date of its publication in the Official Gazette i.e. 16.08.2019.

- (a.) Prior to the amendment, the Companies (Share Capital and Debentures) Rules of 2014 allowed the issue of shares with differential voting rights, subject to the condition that the business should have distributable profits for the previous three years and the capital raised through shares with differential voting rights must not exceed 26% of the post issue paid up equity share capital of the company. As per the amendment, the condition of the last 3 years distributable profit has been dispensed with and the cap of 26% of the total post issue paid up equity share capital has been enhanced to **74% of total voting power in respect of shares** with Differential Voting Rights of a company.

By virtue of the aforesaid amendment, it would enable the promoters of Indian companies to retain control of their companies even as they raise equity capital from global investors. This would particularly be beneficial for startups, as the startups would now be able to attract capital without ceding control.

- (b.) The time period within which Employee Stock Options (ESOPs) can be issued by a Start-up recognized by the Department for Promotion of Industry & Internal Trade (DPIIT) to promoters or Directors holding more than 10% of equity shares in the company, has been enhanced from 5 years to 10 years from the date of the incorporation of the start-up.
- (c.) MCA has dispensed off the requirement for creation of a DRR of 25 per cent of the value of outstanding debentures in respect of listed companies (other than All India Financial Institutions and Banking companies), NBFCs registered with the RBI and for HFCs registered with National Housing Bank (NHB) both for public issue as well as for privately placed debentures.

For unlisted companies (other than All India Financial Institutions and Banking companies), the DRR has been reduced from the present level of 25 per cent to 10 per cent of value of the outstanding debentures.

Hitherto, listed companies had to create a DRR for both public issue as well as private placement of debentures, while NBFCs and HFCs had to create DRR only when they opted for public issue of debentures.

By virtue of this amendment, the cost of the capital raised by companies through issue of debentures would reduce.

(2) Amendment in Schedule VII of the Companies Act, 2013.

MCA has made amendments to Schedule VII (related to CSR Activities) of the Companies Act, 2013 vide its notification no G.S.R. 776(E) dated 11.10.2019. The notification shall come into force on the date of its publication in the Official Gazette i.e 11-10-2019. In the said Schedule VII, for item (ix) the scope of CSR activities has been extended which would now include the following:

"Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and contributions to public-funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs)."

(3) MCA has issued clarification under Section 232(6) of the companies Act, 2013 with respect to the "appointed date" in case of merger/ amalgamation of companies

MCA vide its General Circular No 09/2019 dated 21.08.2019 has made clarification with respect to "appointed date" as mentioned under section 232 (6) of the Companies Act, 2013.

The said section states that scheme shall clearly indicate appointed date for the effectiveness of the scheme, which may be quite difficult for the company to decide exact date as appointed date where the scheme is based on occurrence of the future event. After examining the detailed views, facts and practices as followed, the MCA has clarified that:

- (1) Company may choose the appointed date which may be specific calendar date or date which may be based on the occurrence of an event, and that event would have to be indicated in the scheme as the key element to the proposed scheme.
- (2) The circular further clarifies that the "appointed date" under the scheme shall also be deemed to be the "acquisition date" and date of transfer of control for the purpose of conforming to accounting standards (including Ind AS 103 Business Combinations).
- (3) In case any specific calendar date is chosen as an "Appointed date" then that date may precede the date of filing of application for scheme of merger/ amalgamation in NCLT, but if the appointed date is ante-dated beyond *beyond a year from the date of filing* then proper justification shall be specified in the scheme and that should not be against the public interest.
- (4) In case appointed date is based on an event which is key to the proposed scheme and agreed upon by all the parties of the scheme and in case such a date being a date subsequent to the date of filing of the order with the Registrar under section 232(5), the company shall file an intimation of the same with the RoC within 30 days of such scheme coming into force.

(4) Extension of last date of filing of Form BEN-2 and BEN-1 under the Companies Act, 2013

MCA vide its General Circular No. 10/2019 dated 24.09.2019 has extended the last date of filing of e-Form BEN-2 without payment of additional fees upto 31.12.2019 on account of certain new aspects which require further examination and clarification as per the representations made by the Stakeholders.

Consequent to the extension in the date of filing of e-form BEN-2, the date of filing form BEN-1 may be construed accordingly.

(5) Amendment in the National Financial Reporting Authority Rules, 2018

MCA has amended the National Financial Reporting Authority Rules, 2018 vide its notification no. G.S.R. 636(E) dated 05.09.2019. The notification shall come into force on the date of its publication in the Official Gazette i.e 05.09.2019. The highlights of amendment are summarized as under:

The Annual return in Form NFRA -2 has been notified which is required to be filed by the auditor with respect to the class of companies as referred in rule 3 of National Financial Reporting Authority Rules, 2018 and due date of filing the form has been changed from "30th April of every year" to "30th November of every year."



VALUE ADD

E-ASSESSMENT SCHEME



Aditi Gupta

Manager
Tax Advisory Services

The Government had always taken various E-governance initiatives to make use of the evolving technologies. One such initiative was by way of an amendment in Finance Act 2018, whereby it was provided that an assessment scheme will be introduced to impart greater efficiency, transparency and accountability.

The Central Board of Direct Taxes (CBDT) on 12th September 2019, has notified the e-assessment procedure vide Notification no. 61/2019 and on the same day, gave effect to the E-assessment Scheme, 2019 vide Notification no. 62/ 2019. Pursuant to the said scheme, all assessment proceedings under section 143(3) of the Act shall be conducted electronically in the 'designated portal'¹ through the assessee's registered account and **all communications** between the National e-assessment Centre (NEAC), Regional E-Assessment Centre (REAC), Assessment Unit (AU), Review Unit (RU), Verification Unit (VU) or Technical Unit (TU) and the Assessee ('A') or his Authorized Representative (AR), **shall be exchanged exclusively by electronic mode**. All the communication will be through the NEAC. The AU, VU, TU & RU shall have Additional/ Joint Commissioner/ Director, Deputy/ Assistant Commissioner/ Director and other tax authority/ staff as is necessary.

¹A web portal designed by the Pr. CCIT or Pr. DG (in-charge of the NEAC)



The above-mentioned centers/ units shall be set up to facilitate the conduct of e-assessment and will have the following purpose:



NEAC : To facilitate the conduct of e-assessment proceedings in a centralised manner which shall be vested with the jurisdiction to make assessment



REAC : To facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Pr. CC which shall be vested with the jurisdiction to make assessment



AU : Identification of points or issues material for the determination of any liability, seeking information/ clarification on such issues, analysis of the material furnished by the 'A' or AR



VU : Verification including enquiry, cross verification, examination of books of account, examination of witnesses, recording of statements



TU : Providing technical assistance including assistance or advice on legal, accounting, forensic-information technology, valuation, transfer pricing and other technical matter



RU : Review of the draft order including checking whether the relevant & material evidence has been brought on record, whether relevant points of facts & law, issues of additions/ disallowances, applicable judicial decisions etc have been incorporated/ discussed/ considered in the draft order, checking for arithmetical correctness of modifications proposed

The e-assessment procedure is explained diagrammatically with the help of a flowchart hereinbelow:



* for obtaining further information/ documents/ evidence from 'A', conducting enquiry or verification by VU and seeking technical assistance from TU

**** NEAC may decide:**

- (i) to finalize the assessment as per draft order and serve a copy of such order & notice for initiating penalty proceedings to the 'A' along with issuance of demand notice etc. or
- (ii) to provide opportunity to the 'A' where a modification is proposed (by issuing show cause notice), or
- (ii) to assign draft order to a RU in any 1 REAC for conducting review of such order.

The Scheme also provides that the NEAC may, at any stage of the assessment, transfer the case to the jurisdictional Assessing Officer.

Other Takeaways from the Scheme:

- **Penalty proceedings** for non-compliance:
 - The Scheme also provides that the NEAC may, at any stage of the assessment, transfer the case to the jurisdictional Assessing Officer.
 - The NEAC shall issue a show cause notice to the Assessee and the assessee will respond to the said notice to the NEAC, which shall send the same to the Unit which had sent the recommendation.
 - The said unit shall make a draft penalty order and send a copy to the NEAC or shall drop the proceedings under intimation to NEAC.
- **Appeal against the assessment** made by NEAC shall lie before the CIT(A) having jurisdiction over the jurisdictional Assessing Officer
- There will be **no personal appearance** in the Centers or Units either by the Assessee or AR. However, in case a modification is proposed in the draft order and an opportunity is provided to the Assessee, he shall be entitled to seek personal hearing and the same shall be conducted exclusively through video conferencing.

The Key:

The introduction of the E-Assessment scheme is good news for the assesseees in the Country as it aims to eliminate the interactions between the tax authorities and the assesseees. With the launching of faceless e-assessment scheme, the income tax returns would be assessed and scrutinized in electronic mode without any human interface. From now onwards, there will be no personal appearance of the Assessee (or through authorized representatives) in the Centers or Units. Moreover, the idea of video conferencing is exciting as this would be the first ever application in India with the Government department being involved.

However, since the process is now fully automated, one could face various challenges. Generally, an assessment would involve submissions comprising of multiple number of printed pages. Huge workload would be expected as the same would have to be converted into digital format. Technical glitches from the Information Technology side can also be expected.

Having said the above, the move of the Government by introducing the e-assessment scheme is one of the first steps in the right direction in easing assessment procedures. It would, however, be pertinent to

mention here that re-assessment proceedings under section 147 of the Act have not been covered under the said scheme and that has to happen through the existing mode, hence, not completely eliminating the human interface!

SOUL CORNER

WHAT TASTE DO YOU LEAVE IN OTHERS' MOUTHS?

There was an old man who was admitted in a hospital.

A young man was visiting him every day, and sits with him for more than one hour.

He helps him eat his food, and to take his shower.

Then he takes him walking in the garden of the hospital.

After that he brings him back to his room and helps him to lie down.

He goes away after reassuring himself that the old man is doing well.

One day the nurse entered his room, to give him medicine and inspect his condition, and said to him:

"May the Lord be always gracious to your kind and caring son. Every day he visits you and shows great care."

The old man looked at her and closed his eyes and said to her:

"I wish it was one of my children. This is an orphan from the neighborhood where we live. I met him one day in the past, crying at the door of a Mosque, after his father died. I comforted him and bought for him candy. I neither saw him nor talked to him for a very long time.

When he grew up and came to discover where my wife and I were living. He was visiting us every day to inspect our conditions. When I later fell sick, he took my old wife to his home. He then comes to the hospital to see my treatment everyday. One day I asked him: "My son why do you have to deal with us and care about us?"

He simply smiled and then said: "The taste of the candy is still in my mouth."



Funny Side Up

A lawyer runs a stop sign and gets pulled over by a sheriff. He thinks he's smarter being a big shot lawyer from New York and has a better education than an sheriff from West Virginia. The sheriff asks for license and registration. The lawyer asks, "What for?" The sheriff responds, "You didn't come to a complete stop at the stop sign." The lawyer says, "I slowed down and no one was coming." "You still didn't come to a complete stop. License and registration please," say the sheriff impatiently. The lawyer says, "If you can show me the legal difference between slow down and stop, I'll give you my license and registration and you can give me the ticket. If not, you let me go and don't give me the ticket." The sheriff says, "That sounds fair, please exit your vehicle." The lawyer steps out and the sheriff takes out his nightstick and starts beating the lawyer with it. The sheriff says, "Do you want me to stop or just slow down?"

DATES FOR YOUR DIARY

<u>PF/ESI</u>	<ul style="list-style-type: none"> ⦿ Payment for the month of October 2019 to be made by 15th November 2019. ⦿ Payment for the month of November 2019 to be made by 15th December 2019. ⦿ Payment for the month of December 2019 to be made by 15th January 2020
<u>TCS</u>	<ul style="list-style-type: none"> ⦿ TCS collected for the month of October 2019 to be deposited by 7th November 2019. ⦿ TCS collected for the month of November 2019 to be deposited by 7th December 2019. ⦿ TCS collected for the month of December 2019 to be deposited by 7th January 2020 ⦿ TCS return for the period July 2019 to September 2019 to be filed by 15th October 2019 and TCS Certificate to be issued by 30th October 2019.
<u>ADVANCE TAX</u>	<ul style="list-style-type: none"> ⦿ Third Installment (for corporate assesseees and for non-corporate assesseees) of advance tax for the assessment year 2020-21 to be paid by 15th December 2019.
<u>TDS</u>	<ul style="list-style-type: none"> ⦿ TDS deducted for the month of October 2019 to be deposited by 7th November 2019. ⦿ TDS deducted for the month of November 2019 to be deposited by 7th December 2019. ⦿ TDS deducted for the month of December 2019 to be deposited by 7th January 2020. ⦿ TDS Return for the period July 2019 to September 2019 to be filed by 31st October 2019 and TDS Certificate to be issued by 15th November 2019.
<u>INCOME TAX RETURN FILING</u>	<ul style="list-style-type: none"> ⦿ For assesseees (Non-Transfer Pricing provisions not being applicable) whose accounts are required to be audited under the Act - 31st October 2019. ⦿ For assesseees who are required to furnish a report u/s 92E of the Act (i.e., Transfer pricing provisions being applicable) - 30th November 2019.
<u>GST</u>	<ul style="list-style-type: none"> ⦿ GSTR 3B for the month of September to be filed by 20th October 2019. ⦿ GSTR 3B for the month of October to be filed by 20th November 2019. ⦿ GSTR 3B for the month of November to be filed by 20th December 2019. ⦿ Quarterly Return in Form GSTR-1 for the period July 2019 to September 2019 for registered persons having aggregate turnover upto Rs 1.5 crore to be filed by 31st October 2019. ⦿ Monthly Return in Form GSTR-1 for September for registered persons having aggregate turnover of more than Rs 1.5 crore to be filed by 11th October 2019.

GST

- ⊙ Monthly Return in Form GSTR-1 for October for registered persons having aggregate turnover of more than Rs 1.5 crore to be filed by 11th November 2019.
- ⊙ Monthly Return in Form GSTR-1 for November for registered persons having aggregate turnover of more than Rs 1.5 crore to be filed by 11th December 2019.
- ⊙ Statement for payment of tax for Composition Dealers in Form CMP-08 for the quarter July to September 2019 to be filed by 18th October 2019.
- ⊙ Monthly Return by non-resident taxable person in GSTR-5 for the month of September, October & November 2019 to be filed by 20th October, 20th November & 20th December 2019 respectively.
- ⊙ Details of supplies of online information and database access or retrieval services (OIDAR) by a person located outside India made to non-taxable persons in India in Form GSTR-5A for the month of September, October and November 2019 to be filed by 20th October, 20th November & 20th December 2019 respectively.
- ⊙ Monthly Return by input-service distributor in Form GSTR-6 for the month of September, October & November 2019 to be filed by 13th October, 13th November and 13th December 2019 respectively.
- ⊙ Monthly TDS Return by deductor of tax at source in terms of Section 51 of the CGST Act 2017 in Form GSTR-7 for the month of September, October & November 2019 to be filed by 10th October, 10th November and 10th December 2019 respectively.
- ⊙ Monthly Statement by e-commerce operator with respect to collection of tax at source in Form GSTR-8 for the month of September, October & November 2019 to be filed by 10th October, 10th November and 10th December 2019 respectively.
- ⊙ Annual Return along with the copy of audited annual accounts and a reconciliation statement, duly certified in Form GSTR-9C, for registered persons having aggregate turnover of more than 2 crore, for the financial year 2017-18 to be filed in Form GSTR-9 by 30th November 2019.
- ⊙ Details of goods dispatched or received from the job worker to be furnished by registered persons in Form ITC-04 for the quarter July 2019-September 2019 by 25th October 2019.

**COMPANY
LAW**

- ⊙ Filing of e-Form AOC-4, AOC-4 (CFS), AOC-4 (XBRL), as per their applicability with the ROC for submission of Financial Statements of the Companies for the Financial year 2018-19 within 30 days from the date of Annual General meeting of the Company
- ⊙ Filing of e-Form MGT-7 with ROC for submission of Annual Return for the Financial year 2018-19 within 60 days from the date of Annual General Meeting of the Company.
- ⊙ Filing of e-Form ADT-1 for the appointment of Statutory Auditors of the Companies u/s 139(1) of the Companies Act, 2013, if applicable, within 15 days from the date of the meeting of the Company in which the appointment of Auditor has been made.

<p>COMPANY LAW</p>	<ul style="list-style-type: none">⦿ Filing of LLP e-Form-8 with the ROC for submission of Statement of Account and Solvency of the LLPs for the Financial year 2018-19 within 30 days from the end of 6 months of the financial year to which the Statement of Account and Solvency relates.⦿ MSME Form 1 (Half yearly Return) on or before 30th October, 2019; Every Specified Company of all outstanding dues to Micro or small enterprises suppliers during the period from 1st April, 2019 to 30th September, 2019.
<p>FEMA</p>	<ul style="list-style-type: none">⦿ Filing of Annual Performance Report by Indian Party/Resident Individual in Form ODI Part II-Annual Performance Report (APR) with the Authorised Dealer Bank(s) in respect of each JV/WOS set up outside India by 31st December, 2019.



INSIDE SCV



Session by **Mr.A.K. Singh** on **Forensic Analysis**
in the month of **August 2019**

CONNECT WITH US:

SCV & Co. LLP | Chartered Accountants

DELHI

B-41, Panchsheel Enclave,
New Delhi -110 017

T: +91-11-26499111

F: +91-11-41749444

4/18, Asaf Ali Road,
New Delhi -110 002

T: +91-11-23274888

F: +91-11-23272805

Email:
delhi@scvindia.com

NOIDA

5th Floor (Unit No. 505)

World Trade Tower,

C -1, Sector- 16,

Noida -201 301

Uttar Pradesh

T: +91-120-4814400

Email:
delhi@scvindia.com

LUDHIANA

B-XIX-220, Rani Jhansi
Road, Near SBI Treasury
Branch

Ghumar Mandi,
Ludhiana -141 001

Punjab

T: +91-161-2774527

Email:
ludhiana@scvindia.com



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