R C JAIN AND ASSOCIATES LLP

NEWSLETTER

October

2020

"You're braver than you believe,

and stronger than you seem,

And smarter than you think."

INDEX

EDITORIAL TEAM

DIRECT TAX

Income Tax

1. EXTENDED DUE DATE FOR FURNISHING INCOME TAX RETURNS AND TAX AUDIT FOR THE AY 20-21.

Particular	Assessment Year	Original Due Date	Last extended Due Date	New Due Date
Belated Return	2019-20	31-03-2020	30-09-2020	**30-11-2020**
Revised Return	2019-20	31-03-2020	30-09-2020	**30-11-2020**
Tax Audit Report & all other reports	2020-21	30-09-2020	31-10-2020	**31-12-2020**
Return in case of Transfer Price Audit	2020-21	30-11-2020	-	**31-01-2021**
Return in case of Company Assessee	2020-21	31-10-2020	30-11-2020	**31-01-2021**
Return in case audit is mandatory	2020-21	31-10-2020	30-11-2020	**31-01-2021**
Return in case of partnership firm where audit is mandatory	2020-21	31-10-2020	30-11-2020	**31-01-2021**
Return in any other cases	2020-21	31-07-2020	30-11-2020	**31-12-2020**

Note:

- No relief shall be provided on the interest chargeable under Section 234A if the tax liability exceeds Rs.1 lakh.

- If self-assessment tax liability exceeds Rs.1 lakh, the tax payer would be liable to pay interest under Section 234A from the expiry of original due date i.e.31-07-2020 or 31-10-2020.

2. SECTION 194-O OF TDS & 206C(1H) NOT APPLICABLE IN FOLLOWING CASES:

- Transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC.
- Transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing

corporation, including recognized stock exchanges or recognized clearing Corporation located in International Financial Service Centre.

3. TAX DEDUCTION INTRODUCE IN FY 19-20.

I. Section 80EEB- Deduction in respect of Interest paid on loan taken for the Purchase of electric vehicle

Eligibility

- The deduction under this section is available only to individuals.

Amount of Deduction

- The maximum deduction under this section is Rs 1,50,000.
- The electric vehicle can either be used for Individual use or Business purposes.

Condition

- The loan must be taken from financial institution or a non-banking financial company.
- The loan must be sanctioned anytime during the period starting from 1st April 2019 till 31st March 2023.

II. Section 80EEA- Deduction for interest paid on home loan for affordable housing

Eligibility

- The deduction under this section is available only to individuals.

Amount of Deduction

- A deduction for Interest payment up to Rs. 1,50,000/- is available under this section.
- After availing deduction under the head Income from House Property, assessee can claim additional deduction under this section.

Condition

- The loan must be taken from Financial Institution or a Housing Finance Company for buying a residential house property.

- Stamp duty value of the house property should be Rs 45 lakhs or less.
- Taxpayer should not be eligible to claim deduction under the existing Section 80EE.
- The taxpayer should not own any residential house property as on the date of sanction of the loan.
- If the unit is located in metropolitan city, its carpet area should not exceed 645sq ft or 60 sq metres.
- For units in any other city, the carpet area should not exceed 968 sq ft or 90 sq metres.

4. NOTIFICATION RELATED TO SECTION 92C (ARM'S LENGTH PRICE)

Arm's Length Transaction means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

The arm's length price for the AY 2020-21 shall be the price at which the international transaction or specified domestic transaction has actually been undertaken provided the variation between the price determined as per Section 92C of the said Act and actually incurred does not exceed one per cent in respect of wholesale trading and three percent in all other cases.

"Wholesale Trading" means an international transaction or specified domestic transaction of trading in goods, which fulfills the following conditions: -

- Purchase cost of finished goods is eighty per cent or more of the total cost pertaining to such trading activities; and

- Average monthly closing inventory of such goods is ten percent or less of sales pertaining to such trading activities.

5. EXTENSION OF DEADLINE OF VIVAAD SE VISHWAS SCHEME

The Government has extended the date of Payment without additional amount under the Vivad se Vishwas scheme from 31st December, 2020 to 31st March, 2021.

Also the said notification notifies the last date for filing declaration under Vivad se Vishwas as 31st December, 2020.

\- *Complied by Bhavesh Bang*

Case Laws:

1. **Issue Involved:**

The assesse was obliged u/s 139D read with Rule 12 of Income Tax Rules ,1962 to file return of income electronically with his digital signature. While filing such return he noticed that there was no reflection of the set off available u/s 72 i.e. setting off of current year's business profits against the carry forward loss from the earlier years.

This was because in electronic form some columns are auto populated by system and they cannot be changed manually. So, the assesse was unable to change those figures and make claim for set off u/s 72. Thus, resulting in declaration of higher income that will lead to obligation to pay more tax than it is actually payable.

Samir Narain Bhojwani v. Deputy Commissioner of Income Tax, High Court of Bombay, Writ Petition no. 2825 of 2019, Dated (22-10-2019).

GIST OF THE CASE:

- Assesse- Individual carrying business as a developer and landlord i.e. giving flats constructed by him on rent / leave and license basis and showing rent received as "business income". These flats are business assets.
- During the previous year relevant to the subject assessment year, he sold 3 flats and incurred short-term capital gains of Rs. 77 crores. Also, there was Business loss of 57 crores which he can set off against STCG of that year as per Section 71. Further he remains with 20 crores of taxable income which (out of carry forward loss of 166 crores) can be set off u/s 72.
- But as discussed above, there was no such reflection of c/f losses in electronic form. And therefore, he was unable to claim such set off.
- However, if he files the return as it is, then in future there are chances of excess income tax and if he does not file the return before the due date (31-10-2019) then in that case he will be assessed under penal proceedings.
- Hence assessee made representation to CBDT.
- Meantime till the CBDT takes decision, assesse can file his return (in both forms electronic as well as paper) before the last day of filing and AO would

not act upon electronically filed return to initiate recovery proceedings. Also, AO would accept the paper form of return.

HELD:

- what is provided by Act cannot be taken away by Rules
- AO cannot allow claims not represented in return. The only way to avail any claim missed in originally filed return is by filing revised return
- In given case, there will not be any benefit in filing revise return as the electronic revised return will also fail to show the requited claim to set off.
- The purpose of e-filing of return is to have simplicity and uniformity. Therefore, it cannot bar an assessee from making any claim. It is AO's job to allow or disallow any claim.
- The only way assessee can claim set off is by filing return in paper form.

2. Issue Involved:

The assessee filed return of loss and claimed refund being excess amount paid as tax deduction at source. Despite of sending several letters the return of income was not processed by department and therefore refund was not initiated.

Aegis Customer Support Service (P) Ltd v. Income Tax Officer, High Court of Bombay, Writ Petition no. 2640 of 2019, Dated (18-10-2019).

GIST OF THE CASE:

- Assesse filed return of loss on 17th October 2018 and claimed refund of Rs. 20.24 crores (approx.) being excess amount paid as tax deduction at source by his customer.
- On 10th May 2019 the notice u/s 143(1)(a) was issued seeking explanation as to a proposed adjustment of Rs. 1.33 lakhs claimed under section 36(1) (va). The assessee replied to notice on 27th May 2019 stating that they were entitled for such deduction. After such reply, there was no action taken by AO or Director of Income Tax.
- Assessee by various letters sought an early processing of returns because he was suffering from financial difficulty. According to the assessee, the problem mainly arose due to non-acceptance of his application under section 197 seeking NIL deduction of tax in previous year and only partial deduction of tax at source was granted.
- Assessee filed writ petition in front of court.

HELD:

- It was noted that there was undue hardship suffered by assessee due to authorities not discharging their duties.
- The authorities were directed to process return of income as early as possible but definitely within a period of 3 weeks from passing of order and must pay refund due along with interest in the period of 2 weeks from the date the return is processed.

- *Complied by Sonam Hotchandani*

GST

Notifications

1. **Notification No. 73/2020 – Central Tax Dated 1ST October, 2020**

   As per this notification, the Central Government, on the recommendations of the Council, hereby notifies that the registered person who has prepared tax invoice in a manner other than as specified in Rule 48(4) of the CGST Rules, shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars in FORM GST INV-01 on the Common GST Portal, within thirty days from the date of such invoice, failing which the same shall not be treated as an invoice.

2. **Notification No. 74/2020 – Central Tax, Dated 15th October, 2020**

   As per the notification, the CG on the recommendations of the Council hereby notifies the below due date for a registered person having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year for furnishing details of outward supply of goods or services or both in FORM GSTR-1

Sr. No	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
1	October, 2020 to December, 2020	13th January, 2021
2	January, 2021 to March, 2021	13th April, 2021

3. **Notification No 75/2020 – Central Tax, Dated 15th October, 2020**

   As per the notification, the CG on the recommendations of the Council hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the CGST Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021 till the eleventh day of the month succeeding such month.

4. **Notification No. 76/2020 – Central Tax, Dated 15th October, 2020**

As per the notification, the CG on the recommendations of the Council, hereby specifies below due date for furnishing the return in FORM GSTR-3B for the months from October, 2020 to March, 2021

Sr. No	Aggregate Turnover	Due Date	States
1	Above 5 crores	20^{th} of succeeding month	All States
2	Up to 5 crores	22^{nd} of succeeding month	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep
3	Up to 5 crores	24^{th} of succeeding month	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi

5. **Notification No. 77/2020 – Central Tax, Dated 15th October, 2020**

The Central Government, on the recommendations of the Council, hereby notifies those registered persons whose aggregate turnover in a financial year 2019-20 does not exceed two crores to have an option to file annual return under sub section (1) of Section 44 of the said Act.The said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

6. **Notification No. 78/2020 – Central Tax, Dated 15th October, 2020**

In the said notification, with effect from the 01st day of April, 2021, a registered person having annual turnover in the preceding financial year as specified in column (2) of the Table below shall mention the digits of HSN codes as specified in column (3) of below table in the tax invoice issued by him.

Sr. No (1)	Aggregate Turnover in the preceding Financial Year (2)	Number of Digits of HSN Code (3)
1	Up to 5 crores	4
2	More than 5 crores	6

Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified in the said Table in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.

7. **Notification No. 79/2020 – Central Tax, Dated 15th October, 2020**

The Central Government on recommendations of the Council, hereby makes following amendment under the CGST rules

1) Under Rule 80 sub rule (3), following proviso shall be inserted: -

Every registered person whose aggregate turnover exceeds five crores in the FY 2019-20 shall get his accounts audited and a copy of audited annual accounts and a reconciliation statement, duly certified, in Form GSTR- 9C shall be uploaded on common Portal.

2) Certain Forms and Formats are changed which can be viewed on below link https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-79-central-tax-english-2020.pdf

8. **Notification No. 80/2020 – Central Tax, Dated 28th October, 2020**

The Commissioner, on the recommendation of the Council, hereby extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 till the 31st December, 2020.

9. **Notification No.05/2020-Central Tax (Rate), Dated 16th October,2020**

In the said notification and on the recommendation of the council, following service is exempted under GST

- Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.

Circular

1. **Circular No. 142/12/2020- GST**

Clarification relating to application of sub rule (4) of rule 36 of the CGST Rules, 2017 for the month of February 20 to August 20

- All taxpayers are advised to ascertain the details of invoices uploaded by their suppliers under subsection (1) of section 37 of the CGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in FORM GSTR-1 for the month of September, 2020 as reflected in GSTR-2As.

- Taxpayers shall reconcile the ITC availed in their FORM GSTR-3Bs for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said months. The cumulative amount of ITC availed for the said months in FORM GSTR-3B should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers till the due date of furnishing of the statements in FORM GSTR-1 for the month of September, 2020.
- The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of FORM GSTR-3B, for the month of September, 2020. Failure to reverse such excess availed ITC would be treated as availment of ineligible ITC during the month of September, 2020.

The same is explained via below illustration:

Tax Period	Eligible ITC	ITC availed	ITC reflected in GSTR-2A	Effect of cumulative ITC by applying rule 36(4)
Feb 20	300	300	270	Max Eligible ITC = 2450+ (10% of 2450) = 2695/- Taxpayer has availed ITC of Rs. 2750. Therefore, ITC of Rs. 55/- would be required to be reversed as mentioned above
Mar 20	400	400	380	
April 20	500	500	450	
May 20	350	350	320	
June 20	450	450	400	
July 20	550	550	480	
Aug 20	200	200	150	
TOTAL	**2750**	**2750**	**2450**	
Sep 20	**500**	**385**	**350**	10% rule shall apply independently for September, 2020

Note:

- **In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of Rs. 385/- under Table 4(A) and would reverse ITC of Rs. 55/- under Table 4(B)(2)**

- *Complied by Jay Gudhka*

<u>RBI</u>

1. **<u>RBI/2020-21/48</u>**
   <u>DOR (PCB).BPD.Cir No.3/13.05.001/2020-21</u>

   Interest Subvention Scheme for MSMEs – Co-operative banks

1) Government of India has decided to include Co-operative Banks as Eligible Lending Institutions of 'Interest Subvention Scheme for MSMEs' effective from March 3, 2020.

   - The scheme provides for an interest relief of 2% per annum to eligible MSMEs on their outstanding fresh/incremental term loan/working capital during the period of its validity.
   - The coverage of the Scheme is limited to all term loans/working capital to the extent of □100 lakh.
   - The loan accounts on the date of filing claim should not have been declared as NPA. No interest subvention shall be admissible for any period during which the account remains NPA.

2) The aforesaid operational guidelines for the Scheme have been further modified by the Government as under:

   - The validity of the scheme has been extended till March 31, 2021. Accordingly, fresh or incremental term loan/working capital limit extended by co-operative banks with effect from March 3, 2020 will be eligible for coverage under the scheme.
   - Acceptance of claims in multiple lots for a given half-year by eligible institutions is permitted.
   - Requirement of Udyog Aadhaar Number (UAN) may be dispensed with for units eligible for GST. Units not required to obtain GST may either submit PAN or their loan account must be categorized as MSME by the concerned bank.
   - Trading activities have also been allowed to be covered under the scheme without UAN.

3) Small Industries Development Bank of India (SIDBI) is the single national level nodal implementation agency for the scheme. Nodal office of eligible lending institutions should submit their half yearly claims to SIDBI in the formats and as per the guidelines for claim submission provided in the scheme.

4) Co-operative Banks may take appropriate action and issue necessary instructions to their branches/controlling offices for successful implementation of the scheme.

2. RBI/2020-2021/55
DoR(PCB). BPD.Cir No.4/12.05.001/2020-21

Submission of returns under Section 31 (read with section 56) of the Banking Regulation Act, 1949 - Extension of time

Please refer to the RBI articles of previous months issued to all Primary (Urban) Co-operative Banks (UCBs) extending the period prescribed for submission of returns for the financial year ended on March 31, 2020 by another three months, till September 30, 2020.

1) In view of the difficulties faced by UCBs in finalizing the financial statements amidst the COVID-19 pandemic, Government of India, on the recommendation of the Reserve Bank, has issued a Gazette declaring that the provisions of aforesaid section shall not apply to Primary Co-operative Banks till December 31, 2020. Accordingly, all UCBs shall ensure submission of the aforesaid returns to the Reserve Bank on or before December 31, 2020.

2) Since the Banking Regulation (Amendment) Act, 2020 has not been notified for the State Co-operative Banks and Central Co-operative Banks as yet, they are required to furnish three copies of accounts and balance sheet together with auditor's report as returns to the Reserve Bank and the National Bank (NABARD) within six months from the end of the period to which they refer, i.e., by September 30, 2020 for the F.Y. 2019-20.

However, taking into account the difficulties being faced by the State Co-operative Banks and Central Co-operative Banks due to the ongoing COVID-19 pandemic, the Reserve Bank hereby extends the period for furnishing of the returns for the financial year ended on March 31, 2020 by a further period of three months in terms of the first proviso to the above section. Accordingly, ***all State Co-operative Banks and Central Co-operative Banks shall ensure submission of the aforesaid returns to the Reserve Bank and NABARD on or before December 31, 2020.***

3. RBI/2020-21/56
DOR.No.BP.BC.24/08.12.015/2020-21

Individual Housing Loans – Rationalisation of Risk Weights

On rationalization of risk weights on Individual Housing Loans, the capital charge for claims secured by residential property falling under the category of individual housing loans is assigned differential risk weights based on the size of the loan as well as the loan to value ratio (LTV).

1) As a countercyclical measure, it has been decided to rationalise the risk weights, irrespective of the amount. The risk weights for all new housing loans to be sanctioned on or after the date of this circular and upto March 31, 2022 shall be as under:

LTV Ratio (%)	Risk Weight (%)
≤ 80	35
> 80 and ≤ 90	50

2) The requirement of standard asset provision of 0.25% shall continue to apply on all such loans.
3) The LTV ratios, Risk Weights and Standard Asset Provision for all loans sanctioned prior to the date of this circular shall continue as prescribed earlier and all other instructions applicable earlier shall remain unchanged.

For more details, refer the website rbi.org.in

- Compiled by Aaradhana Pandey

ROC

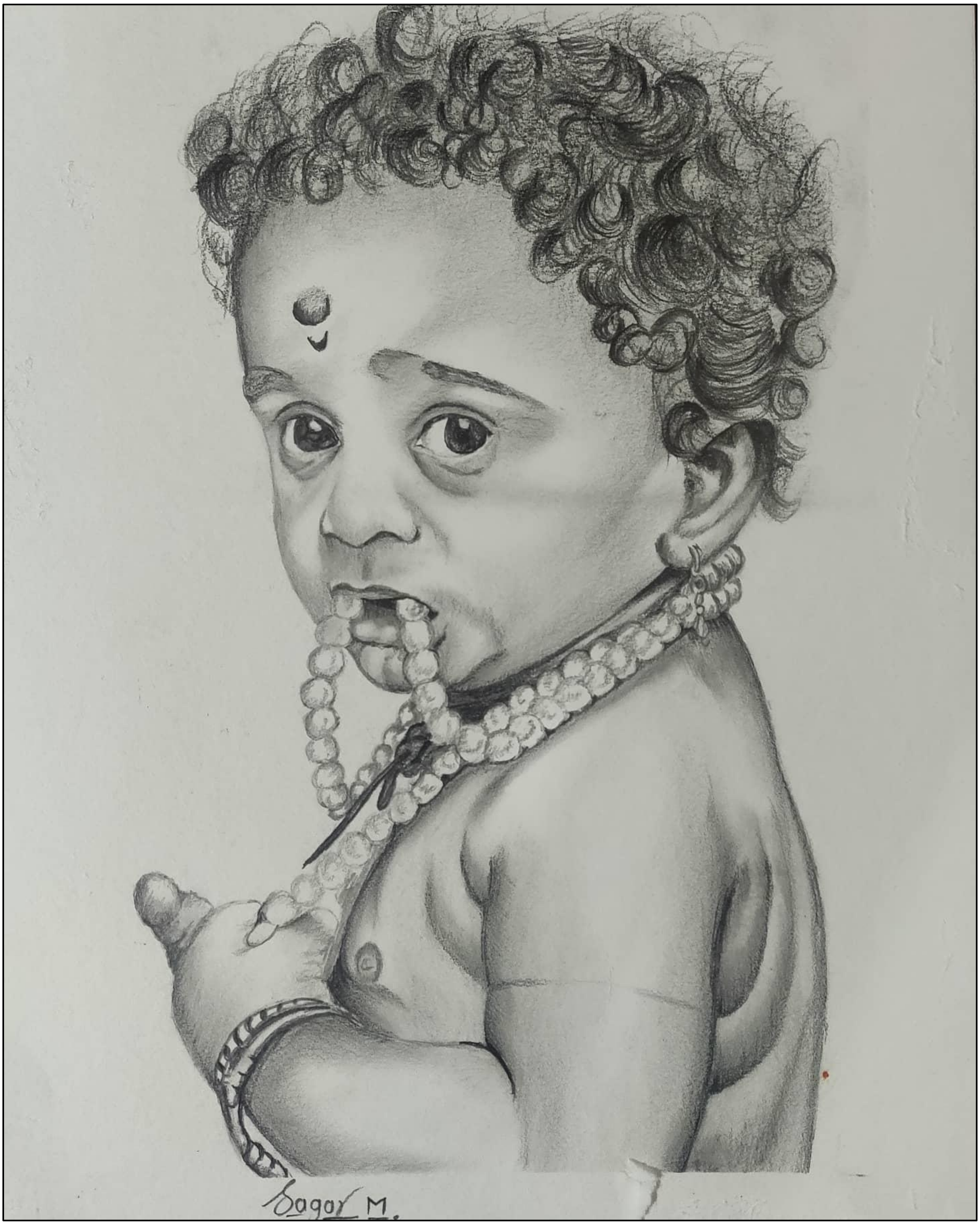
1. **Sensitizing general Public about Nidhi Companies**
   Section 406 of the Companies Act, 2013 and Nidhi Rules were amended w.e.f 15th August, 2019 which required the Nidhi Companies to update/declare their status in e-form NDH-4.
   MCA noticed that many of such companies are not complying with the extant rules and hence MCA advised the stakeholders to ensure that the Nidhi Company, in which they are members or planning to become a member, is following all the rules in this regard.
   Under Nidhi Rules, 2014. Nidhi is a company which has been incorporated with the objective of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit.

2. **Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020**
   On 16th October 2020, MCA notified Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020.
   Accordingly, if a company wants to issue securities to any Qualified Institutional Buyers (QIBs), then a single Special Resolution containing all the details of the issue shall be sufficient for making all allotments to QIBs during the year.

3. **Relaxation in Minimum Residency Period**
   Section 149(3) of the Companies Act, 2013 mandates that at least one director of the company must have stayed in India for at least 182 days during the Financial year.
   MCA received representations from various stakeholders for granting relaxation of the above minimum residency clause. After due consideration, MCA wide its Circular 36/2020 has clarified that the non-fulfillment of the minimum residency period in the FY 2020-21 shall not be treated as non-compliance.

- Compiled by Devang Thakkar

HUNAR HAAT



- *Sagar Mohite*

Allow us to tell you more!

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