

R C JAIN AND ASSOCIATES LLP

NEWSLETTER

January

2020

*“Difficult roads often lead to
beautiful destination.”*



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Income Tax

❖ **SECTION 269SU OF THE INCOME-TAX ACT, 1961, READ WITH RULE 119AA OF THE INCOME TAX RULES, 1962 - ACCEPTANCE OF PAYMENT THROUGH PRESCRIBED ELECTRONIC MODES.**

• **CIRCULAR NO.32/2019 [F.NO.370142/35/2019-TPL], DATED 30-12-2019**

1. In order to encourage digital economy and move towards a less-cash economy, a new provision namely Section 269SU was inserted in the Income-tax Act, 1961 vide the Finance (No. 2) Act 2019, which provides that every person having a business turnover of more than Rs.50 Crore ("**specified person**") shall mandatorily provide facilities for accepting payments through prescribed electronic modes. The said electronic modes have been prescribed vide notification no. 105/2019 dated 30.12.2019. Therefore, with effect from 01st January, 2020, the specified person must provide the facilities for accepting payment through the prescribed electronic modes. Further, Section 10A of the Payment and Settlement Systems Act, 2007, inserted by the Finance Act, provides that no Bank or system provider shall impose any charge on a payer making payment, or a beneficiary receiving payment, through electronic modes prescribed under Section 269SU of the Act.
2. In this connection, it may be noted that the Finance Act has also inserted section 271DB in the Act, which provides for levy of penalty of five thousand rupees per day in case of failure by the specified person to comply with the provisions of section 269SU. In order to allow sufficient time to the specified person to install and operationalize the facility for accepting payment through the prescribed electronic modes, it is hereby clarified that the penalty under section 271DB of the Act shall not be levied if the specified person installs and operationalizes the facilities on or before 31st January, 2020. However, if the specified person fails to do so, he shall be liable to pay a penalty of five thousand rupees per day from 01st February, 2020 under section 271DB of the Act for such failure.

❖ **SECTION 139AA OF THE INCOME-TAX ACT, 1961 - AADHAAR NUMBER - QUOTING OF - EXTENSION OF DATE FOR INTIMATION OF AADHAAR AND LINKAGE OF AADHAAR NUMBER WITH PAN TILL 31-3-2020**

DIRECT TAX

In exercise of the powers conferred under sub-section (2) of section 139AA of the Income-tax Act, 1961, the Central Government hereby amends the notification of the Ministry of Finance (Department of Revenue), dated 28th September, 2019 published in the Gazette of India, to extend the date for Linkage of Aadhar number with Pan from 31st December, 2019 to **31st March, 2020**.

❖ SECTION 139 OF THE INCOME-TAX ACT, 1961 - RETURN OF INCOME - CBDT GRANTS RELAXATION IN ELIGIBILITY CONDITIONS FOR FILING OF INCOME-TAX RETURN FORM-1 (SAHAJ) AND FORM-4 (SUGAM) FOR ASSESSMENT YEAR 2020-21

In order to ensure that the e-filing utility for filing of return for A.Y 2020-21 is available as on 1st April, 2020, the Income-tax Return (ITR) Forms ITR-1 (Sahaj) and ITR-4 (Sugam) for the A.Y 2020-21 were notified vide notification dated 3rd January, 2020. In the notified returns, the **eligibility conditions** for filing of ITR-1 & ITR-4 Forms were **modified** with an intent to keep these forms short and simple with bare minimum number of Schedules. Therefore, a person who owns a property in joint ownership was not made eligible to file the ITR-1 or ITR-4 Forms. For the same reason, a person who is otherwise not required to file return but is required to file return due to fulfilment of one or more conditions in the seventh proviso to section 139(1) of the Income-tax Act, 1961 (the Act), was also not made eligible to file ITR-1 Form.

After the aforesaid notification, concerns have been raised that the changes are likely to cause hardship in the case of individual taxpayers. The taxpayers with jointly owned property have expressed concern that they will now need to file a detailed ITR Form instead of a simple ITR-1 and ITR-4. Similarly, persons who are required to file return as per the seventh proviso to section 139(1) of the Act, and are otherwise eligible to file ITR-1, have also expressed concern that they will not be able to opt for a simpler ITR-1 Form.

The matter has been examined and it has been decided to allow a person, who jointly owns a single house property, to file his/her return of income in ITR-1 or ITR-4 Form, as may be applicable, if he/she meets the other conditions. It has also been decided to allow a person, who is required to file return due to fulfilment of one or more conditions specified in the seventh proviso to section 139(1) of the Act, to file his/her return in ITR-1 Form.

- Compiled by Hiloni Shah

Case Laws:

1) Issue Involved:

CONDUCTING SEARCH ACTIONS SOLELY RELYING ON THE INFORMATION RECEIVED FROM INVESTIGATION WING.

- In the High Court of Delhi, in case of Khem Chand Mukim vs. Principal Director Of Income Tax January 09, 2020 [2020] 113 taxmann.com 529 (Delhi)

GIST OF THE CASE:

The sole ground for action of search and seizure was that Investigation Wing of Income Tax department was in possession of credible information that petitioner was in possession of jewellery which represented his undisclosed income or property, however, no cogent basis for arriving at this conclusion was discernible from satisfaction note, it was a completely unauthorized and a high-handed action on part of department. Merely because assessee was in possession of jewellery, it could not be said that same represented income or property which had not been disclosed or will not be disclosed.

Thus, there was complete lack of information prior to action of search, exhibiting gross non application of mind and arbitrariness by appropriate authorities. Reason to believe in instant case was nonexistent prior to search. Even after search, there was no material to conclude that no such disclosure had been made, or that no disclosure would be made so as to satisfy prerequisites of section 132. The respondent authorities had merely acted on basis of surmises and conjectures, and without due authorization. Their actions were in contravention of law, making action of search and seizure bad in law.

Held:

The impugned search and seizure and ex post facto warrant of authorization issued by respondent under section 132 was quashed and all actions taken pursuant to such search and seizure were declared illegal.

2) Issue Involved:

WHERE ASSESSEE, A SMALL TRADER IN MEDICINE FALLING UNDER SECTION 44AD, OFFERED INCOME ON PRESUMPTIVE BASIS, PROVISIONS OF SECTION 69A COULD NOT BE APPLIED TO MAKE ADDITION IN RESPECT OF UNDISCLOSED CASH CREDITS FOUND IN ASSESSEE'S BANK ACCOUNT.

- In the ITAT Cochin Bench, in the case of Thomas Eapen v. ITO ward 5, Alappuzha [ASSESSMENT YEARS 2015-16], November 19, 2019 [2020] 113 taxmann.com 268

Gist of the Case:

Assessee was a small trader in medicine and declared return of income u/s 44AD at 8% of his turnover. The Assessing Officer made addition u/s 68 in respect of unexplained cash credit found in assessee's bank. On appeal, the CIT(A) held that since assessee did not maintain books of accounts, said unexplained deposits could not be taxed u/s 68 but u/s 69A.

Held:

The Hon'ble ITAT of Cochin held that, since the scheme of presumptive taxation was formed in order to avoid long drawn process of assessment in case of small traders or in case of businesses where income were almost of static quantum of all businesses, the Ld. AO could have made the addition u/s 69A, once he carved out case out of glitches of provisions of Section 44AD and in the current case no such action was carried out by the Ld. AO and hence addition made u/s 69A was deleted.

- Compiled by Kshitij Agrawal

INDIRECT TAX

GST

Notifications

1) Notification No. 27/2019-Central Tax (Rate), Dated 30th December, 2019

The Government, on the recommendations of the Council, hereby makes following further amendments in schedules,

- 1) In Schedule II – 6%, serial numbers 80AA and 171A and the entries relating thereto shall be omitted.
- 2) In Schedule III – 9%, after serial number 163A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

“163B	3923 or 6305	Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods;
163C	6305 32 00	Flexible intermediate bulk containers”.

2) Notification No. 28/2019-Central Tax (Rate), Dated 31st December, 2019

The Government, on the recommendations of the Council, hereby

INDIRECT TAX

Sr. No. (1)	Headings (2)	Description of Services (3)	Rate % (4)	Condition (5)
41	Headings 9972	One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.	Nil	“Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area: Provided further that the State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard: Provided also that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty: Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee,

				or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.”.
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3) Notification No. 29/2019-Central Tax (Rate), Dated 31st December, 2019

The Government, on the recommendations of the Council, hereby makes following further amendments in Notification No.13/2017- Central Tax (Rate), dated the 28th June, 2017.

In the Table, following shall be instead of Serial No.15 which was insterted by notification No. 22/2019 - Central Tax (Rate), dated the 30th September, 2019.

(1)	(2)	(3)	(4)
15	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient	Any body corporate located in the taxable territory

4) Notification No. 01/2020-Central Tax, Dated 1st January, 2020

As per this notification, the Central Government appoints 1st January, 2020, as the date on which sections - 93, 94, 95, 96, 98, 99, 101, 102, 111, & 112 of Finance Act, 2019 shall come into force.

5) Notification No. 02/2020-Central Tax, Dated 1st January, 2020

As per this notification the date of filing FORM GST TRAN-1 has been extended till 31st March, 2020 and date of filing FORM GST TRAN-2 has been extended till 30th April, 2020.

6) Notification No. 03/2020-Central Tax, Dated 01st January, 2020

As per this notification, the said class of persons shall, have an option to transfer the input tax credit (ITC) from the registered Goods and Services Tax Identification Number (GSTIN), till the 30th day of October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October has been extended to 31st day of December, 2019 and 1st January, 2020.

And the balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 31st day of October, 2019, shall be transferred as balance of Union territory tax in the electronic credit ledger has been extended to 31st day of December, 2019 and 1st January, 2020.

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7) Notification No. 04/2020-Central Tax, Dated 10th January, 2020

As per this notification, the last date of filing GSTR-1 from July-2017 to September-2019 has been extended to 17th January, 2020.

8) Notification No. 05/2020-Central Tax, Dated 13th January, 2020

As per this notification, under section 5 the Central Government hereby authorizes,

- a) the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax; and
- b) the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax, as the Revisional Authority under section 108 of the said Act.

Circulars

1) Circular No. 131/1/2020 - GST, Dated 23rd January, 2020

As per this circular, the Exporters has to follow Standard Operating Procedure(SOP), as the Central Government has detected several cases of monetisation of credit fraudulently obtained or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods. On verification, several such exporters were found to

INDIRECT TAX

be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC.

To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept on hold till the verification report in respect of such cases is received from the field formations. Further, the export consignments/shipments of concerned exporters are subjected to 100 % examination at the customs port.

While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context it is advised that exporters whose scrolls have been kept on hold for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs. To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timelines prescribed for verification. Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter.

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If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.

After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Circular No.131/1/2020-GST Page 2 of 5 Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned (email IDs of jurisdictional Chief Commissioners are in Annexure B).

The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

In case, any refund remains pending for more than one month, the exporter may register his grievance at www.cbic.gov.in/issue by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue.

- Compiled by Saloni Lund & Radhika Yadav

RBI**1. RBI/2019-20/144****DoS.OSMOS.No.4633/33.05.018/2019-20****Reporting of Large Exposures to Central Repository of Information on Large Credits (CRILC) – UCBs**

- 1) We draw your attention to RBI Circular DOR (PCB).BPD.Cir.No.7/13.05.000/2019-20 dated December 27, 2019 on "Reporting of Large Exposures to Central Repository of Information on Large Credits (CRILC) - UCBs". In terms of the instructions, Primary (Urban) Co-operative Banks (UCBs) having total assets of Rs.500 crore and above as on 31st March of the previous financial year (hereinafter referred to as "banks") shall report credit information, including classification of an account as Special Mention Account (SMA), on all borrowers having aggregate exposures of Rs.5 crore and above with them to Central Repository of Information on Large Credits (CRILC) maintained by the Reserve Bank. Aggregate exposure shall include all fund-based and non-fund based exposure, including investment exposure on the borrower.
- 2) The operational guidelines for reporting the CRILC- UCBs return are as follows:
 - The reporting frequency of the CRILC- UCBs return is quarterly to start with. The banks need to submit the data on large exposures within 30 days from the end of the quarter through XBRL reporting platform of RBI. Banks may put in place appropriate systems to be in readiness to submit the return on a more frequent periodicity.
 - CRILC - UCBs return will comprise of three sections viz. Section 1: Exposure to Large Borrowers, Section 2: Reporting of Technically / Prudentially Written-off Accounts and Section 3: Reporting of Balance in Current Account, as below:
 - a. In Section 1: Exposure to Large Borrowers, the bank needs to report the credit information of all borrowers having aggregate exposures (fund-based, non-fund based and investment exposure) of Rs.5 crore and above.
 - b. In Section 2: Reporting of Technically / Prudentially Written-off Accounts, the bank needs to report the data on the amount written off,

if any, for borrowers whose technically/prudentially written off amount is Rs.5 crore or more and which are not reported in Section 1.

- c. In Section 3: Reporting of balance in Current Account, the bank needs to report the data on Current Account holders whose (i) balance (either credit or debit) in current account as on reporting date is Rs.1 crore and above or (ii) total of credit summation (sum of all credit transactions) during the reporting quarter is Rs.5 crore and above or (iii) total of debit summation (sum of all debit transactions) during the reporting quarter is Rs.5 crore and above.

- The detailed instructions for each Section are provided in the CRILC-UCBs return installer (macro enabled excel template).
- Banks are advised to take utmost care about data accuracy and integrity while submitting the data on large credits to the Reserve Bank of India, failing which penal action would be undertaken.

- 3) 3. In the light of DoR instructions referred above and in exercise of the powers conferred under Section 27 (2) read with Section 56 (a)(i) of the Banking Regulation Act, 1949(AACS), you are advised to submit the data in CRILC-UCBs return with effect from the quarter ended December 31, 2019.

2. RBI/2019-20/151

A.P. (DIR Series) Circular No.19

'Voluntary Retention Route' (VRR) for Foreign Portfolio Investors (FPIs) investment in debt – relaxations

Authorized Dealer Category-I (AD Category-I) banks is invited to the Foreign Exchange Management (Debt Instruments) Regulations, 2019 notified vide [Notification No. FEMA. 396/2019-RB dated October 17, 2019](#).

The following changes are made to the Directions governing investment through the Voluntary Retention Route (VRR).

- a. The investment cap is increased to **Rs. 1,50,000 crores** from Rs. 75,000 crores.
- b. FPIs that have been allotted investment limits under VRR may, at their discretion, transfer their investments made under the General Investment Limit to VRR.
- c. FPIs are also allowed to invest in Exchange Traded Funds that invest only in debt instruments.

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

- Compiled by Arluv Almeida

CIRCULARS:

G.S.R. 13(E). – In exercise of the powers conferred by sub-section (1) of section 203 of the Companies Act, 2013 (18 of 2013) read with section 469 of the said Act, the Central Government hereby makes the following rules further to amend the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, namely:-

1. These rules may be called the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2020. They shall be applicable in respect of financial years commencing on or after 1st April, 2020.
2. In the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 (herein after referred to as said rules), for rule 8A, the following shall be substituted as under:- “8A. Every private company which has a paid up share capital of ten crore rupees or more shall have a whole-time company secretary.”
3. Every company having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more.”

The following Explanation shall be inserted, namely:-

“Explanation :- For the purposes of this sub-rule, it is hereby clarified that the paid up share capital, turnover, or outstanding loans or borrowings as the case may be, existing on the last date of latest audited financial statement shall be taken into account.”

- Compiled By Jyoti Kadu

HUNAR HAAT

**“The key to happiness is
letting go of that idea of
perfection.”**

- Debra Messing



What is Perfection??

Perfection.....what a vague word it is!! It literally means “a quality, trait or feature of the highest degree of excellence.” However, “excellence” is interpreted by each person differently and is hence highly subjective!

Brought up in family highly valuing academics, I was taught to pursue studies over and above all other activities, which I did successfully. Over my schooling years, I pictured “being perfect” as always topping examinations. I was satisfied fulfilling the wishes of my well-wishers (my parents and teachers). To add the cherry to the cake, I also began aspiring for winning in competitions and other extra-curricular activities, as well as being socially active!

Nonetheless, to quote Leo Tolstoy “If you look for perfection, you will never be content.” Overwhelmed with so many hidden expectations, I couldn't enjoy whatever I had achieved, since I couldn't fulfil them through my capabilities. Another drawback of being a perfectionist is not accepting even the slightest faults, much less criticism from other people.

This bubble broke as soon as I started working to build my career. I realized that trying to meet every person's expectations including mine was NEXT TO IMPOSSIBLE. It reached to the point of self -criticism. I could feel my confidence shattering!!

During the course of my articleship, it dawned on me that every person's idea of “perfection” is different, contradicting what I had construed earlier. For some, achieving perfection was to completely focus on

academics while sometimes overlook work experience, while it was vice versa for others. We always hear about aspirants who were average in school, outshining others once they started pursuing CA, while on the other hand, toppers repeatedly failing.

If one acquires the degree in one stroke, it wouldn't guarantee him a bright and ideal future. Likewise, if one fails to do the same, it doesn't amount to incompetency. What really matters is what he does after qualifying!! Merely clearing these examinations doesn't mean you are 'perfect' for this field.

"I abhor the idea of a perfect world; it would bore me to tears."

-Shelby Foote

What makes the world beautiful and varied is the tinge of imperfection. If everything was flawless, the world would become monotonous and dull, like a black and white painting, devoid of the colours of all its flaws. Isn't it unimaginable?

According to Rabindranath Tagore, "every individual should try to develop each and every aspect of his personality. His aim for perfection shouldn't be merely to achieve certificates and degrees, but to develop every aspect of his personality, giving equal importance to each aspect." I strongly feel that the current system of education in India fails to do it, since it tests only the linguistic and logical capacities of students, while ignoring the rest. As a result, many pupils don't even realize their core strengths, thinking that they are 'less than proficient' in the eyes of their tutors, unless they're fortunate! It is very crucial to be aware of our core competency, like we study 'core competency of a business,' to survive or thrive in this world.

To keep things simple, I am of the opinion that we should first stop trying to mould ourselves to fit into our image of “perfect.” Perfection isn’t about winning everything or being flawless, but having the attitude of resilience which one carries during setbacks. Having faith in one’s strengths, while open-heartedly accepting weaknesses, and BEING HAPPY WITH THEM (in other words, being comfortable in one’s “own skin”) will definitely ensure a “perfect” and ideal life. It is easier said than done!

Don’t you think??

(To all the perfectionists out there!!)

- Madhura Sabnis

Allow us to tell you more!



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