

R C JAIN AND ASSOCIATES LLP

NEWSLETTER

July
2020

*“If you focus on results, you will
never change.*

*If you focus on change, you will
get results.”*



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Income Tax

1. ONE-TIME RELAXATION FOR VERIFICATION OF INCOME TAX RETURNS FILED FOR AY: 2015-16 TO AY: 2019-20

Generally, an Income Tax Return which are filed without a Digital Signature (DSC) is required to be verified through either of the various modes like Aadhaar OTP, EVC, Net-Banking or by sending a signed copy of the ITR-V through post to CPC, Bengaluru. If such verification is not done, then it is treated as if the Return has not been filed.

However, a one-time solution has been given for all such Returns filed from AY: 2015-16 to AY: 2019-20 but which are still pending for Verification.

The Taxpayers are required to verify such returns by using either the OTP, EVC Methods or by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through Speed Post.

Provided verification of the such Returns is completed by 30th September, 2020.

If such verification is not done within the prescribed time, then it will be considered as if the Returns have not been filed and necessary consequences of Non-Filing of Returns may follow.

However, such one-time relaxation is not available in cases where the Income Tax Department has already taken some other measures with respect to such Returns.

2. NATIONAL PENSION SCHEME TIER II- TAX SAVER SCHEME, 2020

This Scheme shall come into force from the date of its publication in the Official Gazette.

Contribution to this Scheme will entitle Central Government Employees for Deduction u/s. 80C Clause (xxv).

- **Eligibility:** Only Central Government Employees can make Contribution to this scheme.
- **Investment:** Minimum Contribution of Rs. 1,000/- to activate the Specified Account and minimum subsequent Contribution of Rs. 250/-

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- **Lock- in- Period:** This Scheme has a Lock- in- Period of **3 years** from the date of Credit of Amount to the Specified Account.
- **Transferability:** The Contribution made to the Specified Account is not allowed to be assigned, pledged or hypothecated during such Lock- in- Period.

3. SCOPE ENLARGEMENT AND IMPROVEMENTS IN FORM 26AS

Form 26AS is also popularly known as the Tax Passbook. Now, the Taxpayers will be able to see additional details of their Financial Transactions in the Improved Form 26AS, based on the data they have submitted in the Statement of Financial Transactions (SFT).

Information of Transactions like Cash Deposit/ Withdrawal from Savings Bank Accounts, Sale/ Purchase of Immovable Property, Time Deposits, Credit Card Payments, Purchase of Shares, Debentures, Foreign Currency etc. which was obtained by the IT Department from various sources like Banks, Mutual Funds and other Institutions, will now be available in Form 26AS as well for persons having High-Value Financial Transactions.

This has been done so that the *new Form 26AS becomes more comprehensive and informative*. It would ensure Due diligence and higher transparency so that the scope of Taxpayers to hide their Income gets narrowed.

CBDT said that this scope broadening would help the honest Taxpayers to be updated with their Financial Transactions while filing their Returns by accessing almost all the necessary information at a single point source. Whereas it will desist the Taxpayers who conceal their Transactions and show lower Income in their Income Tax Returns in order to do Tax Evasion.

4. CERTAIN EXEMPTIONS FROM APPLICABILITY OF TDS UNDER SECTION 194N

Section 194N requires deduction of Tax @ 2% when payments exceeding Rs. 1 Crore are made during the Previous Year to “any person” by:

- a Banking Company
- a Co-Operative Society engaged in the Banking Business or;
- a Post Office

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The Central Government, through a Notification, has excluded few persons from the scope of “any person” mentioned above, i.e. who receives such Payments- the Recipient. This implies, that the Payments made to the following persons shall not be subjected to TDS under this Section:

- Cash Replenishment Agencies (CRAs)
- Franchise Agents of White Label Automated Teller Machine Operators (WLATMOs)
- Commission Agent or Trader Operating under Agricultural Produce Market Committee (APMC)
- Authorized Dealer and its Franchise Agent and Sub-Agent and Full-Fledged Money Changer (FMC) licensed by the RBI.

- *By Neha Agnihotri*

Case Laws:

1. Issue Involved:-

SECTION. 2(22)(E), OF THE INCOME TAX ACT, 1961 IS A DEEMING PROVISION & SHOULD BE CONSTRUED STRICTLY. THE SECTION USES THE EXPRESSION "BY WAY OF ADVANCES OR LOANS" WHICH SHOWS THAT ALL PAYMENTS RECEIVED FROM THE SISTER COMPANY CANNOT BE TREATED AS DEEMED DIVIDEND BUT ONLY PAYMENTS WHICH BEAR THE CHARACTERISTICS OF LOANS AND ADVANCES.

- **Exotica Housing & Infrastructure Company Pvt. Ltd VS. Income Tax Officer, Ward 8(4), In the Income Tax Appellant Tribunal, Delhi.**

Appeal Number :- ITA.NO. 5188/Del./2019

GIST OF THE CASE:

"The brief facts of the case are that the assessee company is engaged in the business of commission agent and property development. The return declaring income of Rs.16,19,070/- was filed on 17.10.2013. The A.O. completed assessment under section 143(3) of the I.T. Act, 1961, after making the impugned addition of Rs.2,88,92,817/- under section 2(22)(e) of the I.T. Act on account of deemed dividend. The total income was assessed at Rs.3,05,11,890/-. It is observed by the A.O. that during the year under consideration, assessee company has received loans and advances for a value of Rs.23,70,33,000/- from M/s Exotica Housing and Infra Projects Pvt. Ltd., which was squared off during the year. The assessee held 98% shares of M/s Exotica Housing and Infra Project Pvt. Ltd. The A.O. issued show cause to the assessee as to why the amount in question should not be considered as deemed dividend and why the amount of Rs.2,88,92,817/- i.e. accumulated profit of advance giving company is not to be considered as undisclosed income of the assessee.

The assessee submitted before the AO that it has taken money from its subsidiary company which was repaid within a short span of time. The transaction between the assessee company and its subsidiary company are in the nature of current account transactions. Hence provisions of section 2(22)(e) is not applicable. The A.O. however, did not accept the contention of the assessee as the amount was taken to discharge its liability by the assessee and

advance was not made in the ordinary course of business. The A.O. accordingly made the impugned addition to the extent of accumulated profit of advance giving company as deemed dividend in the hands of the assessee"

HELD:

"In the judgement of Delhi ITAT it was held that, Considering the facts of the case, we examined the ledger account of the subsidiary company in the books of the assessee company, copy of which is filed at page-7 of the PB, which revealed that there was a substantial opening balance and subsidiary company has paid the amount to the assessee company. The assessee company has taken amount from the subsidiary company which was repaid and thereafter, it is the assessee company which has given the amount to the subsidiary company on most of the occasions and later on the subsidiary company has returned the amount to the assessee. Therefore, such facts would clearly reveal that provisions of Section 2(22)(e) would not be attracted in the case of assessee company. Learned Counsel for the Assessee submitted that similar is the pattern of the transaction in current year and in subsequent year as well and no addition have been made by the Revenue Authorities against the assessee company in earlier assessment year as well as in subsequent assessment year on account of deemed dividend under section 2(22)(e) of the I.T. Act, 1961. Thus, the rule of consistency shall have to be followed by the Income Tax Authorities as is held by the Hon'ble Supreme Court in the case of Radhasoami Satsung 193 ITR 321 (SC).

The assessee has pleaded before us that assessee company and its subsidiary company are in the same business of real estate and money have been used in the ordinary course of business. Therefore, it being the current account maintained between both the company, deeming fiction should not have been applied against the assessee. Therefore, such facts would clearly reveal that provisions of Section 2(22)(e) would not be attracted in the case of assessee company"

2. Issue Involved:-

S. 54F: IN DETERMINING WHETHER THE ASSESSEE OWNS MORE THAN ONE RESIDENTIAL PROPERTY, THE USAGE OF THE PROPERTY HAS TO BE CONSIDERED. IF AN APARTMENT IS SANCTIONED FOR RESIDENTIAL PURPOSES

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BUT IS IN FACT BEING USED FOR COMMERCIAL PURPOSES AS A SERVICED APARTMENT, IT HAS TO BE TREATED AS COMMERCIAL PROPERTY. ALTERNATIVELY, SEVERAL INDEPENDENT RESIDENTIAL UNITS IN THE SAME BUILDING HAVE TO BE TREATED AS ONE RESIDENTIAL UNIT AND THERE IS NO IMPEDIMENT TO ALLOWANCE OF EXEMPTION U/S 54F(1)

- **Navin Jolly VS. Income Tax Officer, Ward 11(1), IN THE HIGH COURT OF Karnataka At Bengaluru.**

Appeal Number :- I.T.A NO. 320 OF 2011.

GIST OF THE CASE:

"The assessee filed his return of income for Assessment year 2006-07 on 30.10.2006 declaring income of Rs.53,06,473/-. The return filed by the assessee was selected for scrutiny and notice under Section 143(2) of the Act was issued. The assessee stated that he had sold shares in the company viz., M/s Corporate Leisure Resorts and Hotels Pvt. Ltd., during financial year 2005-06 and derived long term capital gain of Rs.1,55,47,315/-. The appellant further declared that he had constructed a residential property during the year situated at 808/7 and 808/8 Kaikondanahalli, Sarjapur, Bangalore. The appellant claimed exemption under Section 54F of the Act to the extent of Rs.1,55,47,315/-. Before the assessing officer, the assessee agreed voluntarily to offer a sum of Rs.4,17,339/- for taxation.

The assessing officer vide order dated. 31.12.2008 inter alia held that the assessee owns nine residential flats in his name and that he is deriving the income from the residential flats and declared the same under the head income from house property during Assessment year 2006-07 and is therefore, not eligible to claim exemption by invoking proviso (a)(i) and (b) to Section 54F (1). The assessing officer further recorded a finding that properties owned by the appellant are residential apartments. Accordingly, exemption under Section 54F of the Act was denied. "

HELD:

"In the recent judgement of the Hon'ble High court of Karnataka it was held that we hold that assessee even otherwise is entitled to the benefit of exemption under Section 54F(1) of the Act as the assessee owns two apartments of 500 square feet in same building and therefore, it has to be treated as one

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residential unit. Also the remaining seven flats have been sanctioned for commercial purposes. The aforesaid fact cannot be permitted to act as impediment for allowance of exemption under Section 54F(1) of the Act. For the aforementioned reasons, the substantial questions of law are answered in favour of the assessee and against the revenue.

In the result, the orders of the assessing officer and Commissioner of Income Tax (Appeals) and Income Tax Appellate Tribunal insofar as it pertains to denial of exemption under Section 54F(1) of the Act to the appellant is hereby quashed and the appeal is allowed."

- *Complied by Shweta Keswani*

GST**Notifications****1. Notification No. 58/2020-Central Tax, Dated 1st July, 2020**

As per the notification, Central Government hereby notifies under **rule 67A Manner of furnishing of return or details of outward supplies by short messaging service facility.**

Registered person can now file Nil return u/s 39 i.e. GSTR-3B and Nil return u/s 37 i.e. GSTR-1 for a tax period through a short message using registered mobile number and the return shall be verified through OTP facility.

This notification shall be effective from 1st July, 2020.

2. Notification No. 59/2020-Central Tax, Dated 13th July, 2020

As per this notification, Central Government extends the due date for filing GSTR-4 i.e. Return of composition dealers from 15th July 2020 to 31st August 2020 for F.Y. 2019-20.

3. Notification No. 04/2020-Integrated Tax, Dated 24th June, 2020

As per the notification, removal of difficulties order can be passed till expiry of 5 years from commencement of Act.

This notification will be effective from 30th June, 2020.

Due Dates For Reference

- a) For taxpayers having an Aggregate Turnover of more than Rs. 5 Crores in the preceding F.Y.

Month	Due date	Relief upto	Interest for first 15 days	After 15 days but upto 24.06.2020
Feb20	20.03.2020	24.06.2020	NIL till 04.04.2020	9%
March 20	24.04.2020	24.06.2020	NIL till 05.05.2020	9%
April 20	20.05.2020	24.06.2020	NIL till 04.06.2020	9%

- b) For taxpayers having an Aggregate Turnover of upto Rs. 5 Crores in the preceding F.Y.

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Month	Relief date	Rate of interest applicable after relief date (p.a)	Interest Rate @ 9% p.a. applicable up to	States
Feb 20	30.06.2020	9%	30.09.2020	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh and Union Territories of Daman & Diu, Dadra and Nagar Haveli, Puducherry, Andaman & Nicobar Islands & Lakshadweep
March 20	03.07.2020	9%	30.09.2020	
April 20	06.07.2020	9%	30.09.2020	
May 20	12.09.2020	9%	30.09.2020	
June 20	23.09.2020	9%	30.09.2020	
July 20	27.09.2020	9%	30.09.2020	
August 20	01.10.2020 (Due date)			

Month	Relief date	Rate of interest applicable after relief date (p.a)	Interest Rate applicable up to	States
Feb 20	30.06.2020	9%	30.09.2020	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha and Union Territories of Jammu & Kashmir, Ladakh, Chandigarh and Delhi.
March 20	05.07.2020	9%	30.09.2020	
April 20	09.07.2020	9%	30.09.2020	
May 20	15.09.2020	9%	30.09.2020	
June 20	25.09.2020	9%	30.09.2020	
July 20	29.09.2020	9%	30.09.2020	
August 20	03.10.2020 (Due date)			

- c) The total amount of Late Fee payable in excess of Rs. 250/- per tax period for taxpayers who failed to furnish GSTR 3B for the months of July'2017 to January'2020 by the due date shall stand waived. Provided that the returns shall be furnished between the periods from 01.07.2020 to 30.09.2020.

Provided also that when the Central Tax Payable in the said return is Nil, the total amount of late fee payable shall stand waived if the returns are furnished between the period 01.07.2020 to 30.09.2020

- Complied by Saloni Lund

RBI

1. **RBI/2020-2021/10**
FIDD.MSME & NFS.BC.No.3/06.02.31/2020-21

Credit flow to Micro, Small and Medium Enterprises Sector

RBI has notified new criteria for classifying the enterprises as Micro, Small and Medium enterprises. *The new criteria will come into effect from July 1, 2020.* The details are as under:

a) Classification of enterprises -

An enterprise shall be classified as a Micro, Small or Medium enterprise on the basis of the following criteria, namely:

Classification	Micro	Small	Medium
Mfg. Enterprises & Service Enterprise	Investment < Rs. 1 crore	Investment < Rs. 10 crores	Investment < Rs. 50 crores
	and	and	and
	Turnover < Rs. 5 crores	Turnover < Rs. 50 crores	Turnover < Rs. 250 crores

b) Composite criteria of investment and turnover for classification -

- A composite criterion of investment and turnover shall apply for classification of an enterprise as micro, small or medium.
- If an enterprise crosses the ceiling limits specified for its present category in either of the two criteria of investment or turnover, it will cease to exist in that category and be placed in the next higher category *but no enterprise shall be placed in the lower category unless it goes below the ceiling limits specified for its present category in both the criteria of investment as well as turnover.*
- All units with Goods and Services Tax Identification Number (GSTIN) listed against the same Permanent Account Number (PAN) shall be collectively treated as one enterprise and the turnover and investment figures for all of such entities shall be seen together and only the aggregate values will be considered for deciding the category as micro, small or medium enterprise.

c) Calculation of investment in plant and machinery or equipment -

- The calculation of investment in plant and machinery or equipment will be linked to the Income Tax Return (ITR) of the previous years filed.
- In case of a new enterprise, where no prior ITR is available, the investment will be based on self-declaration of the promoter of the enterprise and such relaxation shall end after the 31st March of the financial year in which it files its first ITR.
- The expression “plant and machinery or equipment” of the enterprise, shall have the same meaning as assigned to the plant and machinery in the Income Tax Rules, 1962 and shall include all tangible assets (other than land and building, furniture and fittings).
- The purchase (invoice) value of a plant and machinery or equipment, whether purchased first hand or second hand, shall be taken into account excluding Goods and Services Tax (GST), on self-disclosure basis, if the enterprise is a new one without any ITR.
- The cost of certain items specified in the Explanation I to sub-section (1) of section 7 of the Act shall be excluded from the calculation of the amount of investment in plant and machinery.

d) Calculation of turnover -

- Exports of goods or services or both, shall be excluded for the purposes of classification.
- The turnover and exports turnover for an enterprise shall be linked to the Income Tax Act or the Central Goods and Services Act (CGST Act) and the GSTIN.
- The turnover related figures of such enterprise which do not have PAN will be considered on self-declaration basis for a period up to 31st March, 2021 and thereafter, PAN and GSTIN shall be mandatory.

2. RBI/2020-21/11**DoR (NBFC) (PD) CC. No. 114/03.10.001/2020-21****Extension of timeline for finalization of audited accounts**

- In view of the on-going situation, it has been decided that every applicable NBFC shall finalise its balance sheet within a period of 3 months from the date to which it pertains or any date as notified by SEBI for submission of financial results by listed entities.

3. RBI/2020-21/15
DOR (NBFC).CC.PD.No.116/22.10.106/2020-21

Implementation of Indian Accounting Standards

- RBI has notified NBFCs and Asset Reconstruction Companies that the unrealised gain/loss on a derivative transaction undertaken for hedging may be offset against the unrealised loss/gain recognized in the capital (either through Profit or Loss or through Other Comprehensive Income) on the corresponding underlying hedged instrument.
- If after such offset and netting with unrealised gains/losses on other financial instruments, there are still net unrealised gains, the same should be excluded from regulatory capital.
- It is also clarified that unrealized gains/losses shall be considered net of the effect of taxation. All other instructions remain unchanged.

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

- *Compiled by Aaradhana Pandey*

CIRCULARS:

1. Extension of the last date of filing of Form NFRA-2-req:

This Ministry has issued General circular and has decided that the time limit for filing of Form NFRA-2, for the reporting period FY 2018-19, will be 270 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA).

2. Availability of filing PAS-6 e-Form:

Form PAS-6 is used for Reconciliation of the Share Capital Audit Report on half -yearly basis.

This form is applicable on the following:

- a) Unlisted Public Companies.
- b) Applicable with effect from July 15, 2020.
- c) Form PAS-6 is a half yearly Audit Report on Reconciliation of Share Capital which is to be signed by a PCS/PCA (Practicing Company Secretary / Chartered Accountant).
- d) All information shall be furnished within 60 days from the end of each half year (30th September/31st March) for each ISIN separately.
- e) The Company shall immediately bring to the notice of the depositories about any difference observed in its issued capital and the capital held in dematerialised form.

The due date of the Form PAS-6 is on 12th September, 2020 (i.e. 60 days) after the deployment of Form PAS-6.

3. Extension of time for EGM:

This Ministry has issued General circular for providing clarification on passing of ordinary and special resolutions by companies by holding extraordinary general meetings (EGMs) through video conferencing (VC) or other audio-visual means (OAVM) or passing of certain items only through postal ballot without convening general meeting. This allows the companies to hold EGMs and transact the business through postal ballot till 30th June 2020 or till further orders, whichever is earlier.

It is examined and decided to allow companies to conduct their EGMs through video conferencing (VC) or other audio-visual means (OAVM) or passing of certain items only through postal ballot up to 30th September, 2020.

-Compiled by Mridula Tawde

HUNAR HAAT

Once you become

FEARLESS

life becomes

LIMITLESS.

Q U O T E D I A R Y . M E

A Burning Desire

Corona does not kill, but Fear can.

Fed up of hearing this na??? But believe me. It's not a Jargon!!! It's a fact.

Good health is a blessing from God. But is it enough to receive the blessing and sit on it? A Gift once received needs maintenance to cherish it for long. Same way a God given blessing of 'Good Health' also needs maintenance to enjoy it for life.

Hmmmmmm, but what if for some reason one does not have the best of health? Does it mean that one needs to live with his poor health and keep falling prey to Flu... Malaria... Dengue... and the latest of all CORONA?

It's on with him, how to move ahead...

Option 1 – Keep doubting and cursing God.

Option 2 – Work hard with his body and soul and get a better health than X.

Do you really feel some Mr. X, Y or Z can be dearer to GOD so as to receive the gift of best health? God is the father of all, and as children we are all equal in the eyes of God. If X, Y or Z have better health now, is may be because they have inherited this from their earlier birth (if you can really believe in the concept of re-birth) or because they have inherited it from their earlier generations who have worked hard on their body & soul.

Oh, shut up!!!

All this boring and stupid theories. CORONA is a draconian disease and so powerful that it can kill. Even if it doesn't, it can lead me to hospital... It can affect my Family too... My family will be disturbed... My Finances will be shattered... Oh fish... this is just a killer disease!!!

And my answer to all these worries are... **“CORONA is not draconian, but FEAR is”**. No disease is draconian if we have the BURNING DESIRE to stay away from it. We are doing everything to keep ourselves physically away from the disease, by not moving out. And we feel safe. But are we doing enough to keep CORONA out mentally? Physically CORONA can still touch us from the groceries that we buy and the essentials that we use and mentally it is killing us every second. Yes, if we can stop our daily essentials, we can keep CORONA out for ever. Can we do this for life? Oh, forget life, can we do this for 12 months... 9 months... 6 months... Will CORONA vanish in few months?

Hey... but even if CORONO vanishes, Dengue still remains... Flu & Malaria are no less... Better we stay at home for the entire life only.

OR...

Work on our body and soul.

Regular work outs, yoga (as a combination of Asanas, Pranayam & Meditation), walks, outdoor plays, those climbing the trees, those playing in the soil, those running around the poles... It's not all about Gyms. Keeping the body active is the best way to keep it fit.

Slight changes in the lifestyles like 'Early to bed & early to rise', 'Breakfast like a King, Lunch like a Pauper & Dinner like a Beggar', 'Eat food like medicines so that you do not have to eat medicines like Food', 'An Apple a Day can keep the Doctor away', 'Eat to Live and not Live to Eat', 'The beginning of health is Sleep', 'Work is half of Health'...

Stop following the west for Food habits or for that matter curing every small disease in the body with antibiotics. Except for some serious medical disorders, others can be cured by our body itself. Best medicines are 3-4 liters of water a day, a couple of glasses of hot/warm water, couple of glasses of warm lime water, a cup of mixed herbs Kadha, a hot steam inhalation, freshly cooked Local food, Rich use of our local herbs like turmeric, cinnamon, clove, tulsi, fenugreek seeds, black pepper, ginger, garlic etc.

A POSITIVE ATTITUDE and A BURNING DESIRE towards a healthy life and several cheerful moments with family and friends (real physical friends and not virtual friends), can create wonders for the Healthiest life. FEAR is a virus which can be controlled by the Antivirus of DETERMINATION. And this Anti-Virus needs to run on our body 24/7, 365 days...

Life is Simple and Health is Cheap... What is costly is LIFESTYLE.

- *By Meera Joisher*

Allow us to tell you more!



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