

R C JAIN AND ASSOCIATES LLP

NEWSLETTER

June
2020

*“The secret of getting ahead is
getting started.”*



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DIRECT TAX

Income Tax

❖ COST INFLATION INDEX FOR THE FINANCIAL YEAR 2020-21

➤ EXTENSION OF TIME LIMIT FOR COMPLIANCE OF THE FOLLOWING UNDER THE INCOME TAX ACT, 1961;

Sr. no	Particulars	Extended due date/ time limit
1	Furnishing of return under section 139 <ul style="list-style-type: none">• For AY 2019-20• For AY 2020-21	Extended limit for filing ITR shall be <ul style="list-style-type: none">• 31st July '20 (<i>Interest shall be levied u/s 234 A, B and C, No Penalty, however, u/s 234F shall be applicable.</i>)• 30th November '20 (<i>only If SA Tax > Rs. 1 lac, then u/s 234A Interest shall be levied</i>) (<i>Interest shall be levied u/s 234 B and C in all cases.</i>)
2	Furnishing of certificate for TDS / TCS for FY 2019-20	Extended to 15 th August '20
3	Furnishing of statements of tax deductions or tax collection pertaining to QoQ of FY 2019-20	Extended to 31 st July '20
4	Aadhar and Pan linking deadline	Extended to 31 st March '21
5	Investment for claiming Deduction under Chapter VIA for AY 2020-21	Extended to 31 st July '20

6	Investment / Construction / Purchase shall be eligible for claiming Deduction for Capital Gains Exemption under Sections 54 to 54GB	Extended to 30 th September '20
7	<p>Furnishing Income Tax Audit reports</p> <ul style="list-style-type: none"> • For AY 2019-20 • For AY 2020-21 	<p>Extended limit for filing IT Audit reports shall be</p> <ul style="list-style-type: none"> • 31st July '20 (Penalty u/s 271B @ 0.5% of Turnover or Rs. 1,50,000/-, whichever is less shall be levied) • 31st October '20 (No Interest or Penalty shall be leviable if filed within Revised Due Date)
8	Vivad Se Vishwas Scheme, 2020	The Date of furnishing of Declaration, passing of Order, etc. under the Scheme stand extended to 31/12/2020.

- Complied by Praanav Vatani

Case Laws:

❖ **Issue Involved:**

WHERE ASSESSING OFFICER CARRIED OUT EXTENSIVE RESEARCH TO CONCLUDE THAT SERVICES AVAILED BY ASSESSEE AN ADVERTISING AND MEDIA AGENCY FOR WHICH PAYMENT WAS MADE TO DIFFERENT AGENCIES WERE IN NATURE OF TECHNICAL SERVICES, HOWEVER SUCH RESEARCH MATERIAL WAS NOT PROVIDED TO ASSESSEE TO REBUT SAME. PRINCIPLES OF NATURAL JUSTICE HAVING BEEN VIOLATED, ORDER PASSED BY ASSESSING OFFICER WAS TO BE SET ASIDE.

- **TLG India Pvt Ltd v. Income-tax Officer TDS, High Court of Bombay, Writ Petition No. 1788 of 2019, dated (29-07-2019).**

GIST OF THE CASE:

The assessee company was an advertising and media agency. It made payments to the agencies for such services provided. According to the assessee, the TDS was to be deducted in terms of section 194C as payments to the contractors. The department contends that such deduction should have been u/s 194J by way of professional or technical services. In the order, AO had referred to in-depth research carried out by him and came to conclusion that services availed by assessee for which payment was made were in nature of technical services - However, he did not share such material with assessee giving an opportunity to him to rebut same by suggesting that assessee was already engaged in same business and therefore would be aware. The assessee filed a detailed submission before the authority, offering its own version and explanation why the deduction of tax at source under section 194C already made was proper and that the deduction under section 194J was not called for. The Income Tax Officer (TDS), however, passed his orders under section 201 (1)/201 (1A) and, held that the assessee had short tax deducted/not deducted tax at source to the tune of Rs. 91.10 crores.

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Held:

There is nothing in the orders to suggest that Income Tax Officer (TDS) shared such research with the assessee, before he passed the final orders.

In his affidavit-in-reply also, the stand of the Income Tax Officer (TDS) is that the assessee doing the same business, was well aware about the nature of the services being rendered. In short, the stand of the Officer is that the assessee being well aware of the nature of the services, it was futile to share with the assessee the research that he carried out and give an opportunity to rebut the same if so desired by the assessee. In plain terms, the orders in the present case didn't survive the test of "following principles of natural justice". Hence, the disputed orders are set aside. The entire issue is placed back before the Income Tax Officer (TDS). The decision stands partly in favour of Assessee.

❖ Issue Involved:

WHERE ASSESSEE'S APPLICATION UNDER SECTION 12A WAS REJECTED ON GROUND THAT IT WAS INDULGING IN ACTIVITY OF MERELY SKILL ENHANCEMENT IN WHICH NO SYSTEMATIC EDUCATION WAS INVOLVED FALLING WITHIN DEFINITION OF EDUCATION UNDER SECTION 2(15). IN VIEW OF FACT THAT VOCATIONAL EDUCATIONAL/TRAINING PROGRAMME RUN BY ASSESSEE-SOCIETY WAS A SYSTEMATIC PROGRAMME IMPARTING CLASSROOM COACHING AS WELL TRAINING WITH FOCUS ON EMPLOYMENT GENERATION WHICH DULY FELL WITHIN PURVIEW AND SCOPE OF TERM 'EDUCATION' UNDER IN SECTION 2(15), DISPUTED ORDER WAS TO BE SET ASIDE.

- **Unique educational Society v. Commissioner of Income Tax, Chandigarh, ITAT, No. 1052 of 2018, dated (06-08-2019).**

GIST OF THE CASE:

The assessee-society applied for registration under section 12A pleading that it had been running a private industrial training institute, which was imparting vocational training to the students. The institution was duly recognized by State Government of Haryana. The Commissioner

DIRECT TAX

(Exemption) rejected assessee's claim holding that the assessee was indulged in activity of merely skill enhancement in which no systematic education was involved as per the definition used in section 2(15). Secondly, he observed that the assessee-society was merely an implementing agency of the Government and was being reimbursed for its activities which could not be held to be a charitable activity; rather, the assessee was doing such activity for commercial purposes

Held:

So far as the observation of the Commissioner that the activity of the assessee would not fall within the scope of term 'Education' is concerned, it is found that:

- a) The assessee has been running the vocational training course in a systematic manner and is affiliated and regulated by NCVT as well as SCVT, Haryana.
- b) The examinations are conducted on national level and Diploma equivalent to 10+2 degree is awarded by the NCVT.
- c) The courses run by the assessee being for promotion of skill development and training, classrooms teaching and trainings are designed for generation of employment opportunities for village youths and the same have been duly recognized by the State Government as well as Central Government.

Considering the aforesaid findings, education given by the assessee, can safely be said to be in the mode of systematic instructions/schooling or training given to the young in preparation for the work of life and, duly falls within the purview and scope of the term 'Education' as used in section 2(15). So far as the observation of the Commissioner that the income of the assessee is not from voluntary donation is concerned, it is found that the assessee trust is reimbursed the amount spent by the Government for carrying out its education/training programme as per the skill development programme of the Government. Thus, it can be safely said to be income generated from the activity of the assessee trust and the said activity falls within the purview and scope of charitable purpose. Thus, the order of the Commissioner is set aside and he is directed to grant registration to the assessee-society under section 12A, read with section 12AA of Income Tax Act, 1961.

The appeal of assessee-society stands allowed and the stand of the Commissioner stands dismissed.

- *Complied by Misba Shah*

GST

❖ Notifications

1) Notification No. 44/2020 - Central Tax dated 8th June, 2020

The Government, from 8th June, 2020, brings into force rules provided under notification No. 38/2020 - Central Tax, dated the 5th May, 2020.

- a. Proviso to Rule 26 is inserted stating that Registered Companies may, for the period from 21st April, 2020 to 30th June, 2020, file return under section 39 in GSTR-3B through 'electronic verification code.' (EVC) instead of digital signature.
- b. Rule 67A is inserted stating that Taxpayers, who are required to furnish a NIL return, can now submit statement through "short messaging service facility". They will avail this facility using registered mobile number, and submission would be authenticated by One Time Password.

2) Notification No. 45/2020 - Central Tax dated 9th June, 2020

The Government, on Council's recommendation, amends Notification No.10/2020- Central Tax, dated 21st March, 2020. This notification will come into force from 31st May, 2020.

Notification No.10/2020- Central Tax instructs persons whose principal place of business or place of business was in Union territory of Daman and Diu or in of Dadra and Nagar Haveli till the 26th day of January, 2020, and is currently in merged Union Territory of Daman and Diu and Dadra and Nagar Haveli, to follow procedures until 31st May, 2020, for:

- Ascertaining tax period for month of January and February, 2020.
- Payment of tax
- Option to transfer input tax credit to new GSTIN

In the above paragraph, the date '31st May 2020' is extended to '31st July, 2020.'

INDIRECT TAX

3) Notification No. 46/2020 – Central Tax dated 9th June 2020

The Central Government, on the recommendations of the Council hereby notifies that in cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuing order falls between 20th March, 2020 and 29th June, 2020, the due date shall be extended to 15 days from the date of receipt of reply to the notice issued by the registered person, or 30th June whichever is later.

4) Notification No. 47/2020 – Central Tax dated 9th June 2020

The Central Government, on the recommendations of the Council, has amended Notification No..35/2020- Central Tax, dated the 3rd April, 2020 which states that the E-way bill which were generated and whose validity period expires between 20th of March,2020 to 20th of May,2020 shall be deemed to have been extended till 30th day of June, 2020.

5) Notification No. 48/2020 – Central Tax dated 19th June 2020

The Central Government, on the recommendations of the Council, has amended Sub rule (1) of Rule 26, stating that companies registered under Companies Act, 2013 (18 of 2013) will be allowed to furnish GSTR 3B through electronic verification code (EVC) during the period from 21st day of April, 2020 to the 30th day of September, 2020.

Also, the companies shall be allowed to furnish GSTR-1 through EVC during the period from 27th day of May, 2020 to the 30th day of September, 2020.

6) Notification No. 49/2020 – Central Tax dated 24th June 2020

The Central Government hereby appoints the 30th day of June, 2020, as the date on which the provisions of sections 118, 125, 129 and 130 of the said Act, shall come into force.

Section 118: Appeal to Supreme court

Section 125: General penalty

Section 129: Detention, seizure and release of goods and conveyances in transit

Section 130: Confiscation of goods or conveyances and levy of penalty

INDIRECT TAX

7) Notification No. 50/2020 – Central Tax dated 24th June 2020

Amendment is Rules relating to Rate of tax under composition levy:

Sr no.	Category of Registered persons (2)	Rate of Tax (3)
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	0.5% of the Turnover in the state or Union Territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	2.5% of the Turnover in the state or Union Territory
3	Any other supplier eligible for composition scheme under sub-section (1) & (2) of section 10	0.5% of the Turnover of supplies of goods and services in the state or Union Territory
4	Registered persons not eligible under sub-sections (1) & (2), but eligible to opt to pay tax under subsection (2A) of Section 10	3% of the Turnover of supplies of goods and services in the state or Union Territory

8) Notification No. 51/2020, 52/2020 & 54/2020 – Central Tax dated 24th June 2020

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

The rate of interest per annum shall be as follows, for registered persons who are required to furnish the returns in FORM GSTR-3B, but fail to furnish the said return along with payment of tax for the respective months:

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%

INDIRECT TAX

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

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)			

INDIRECT TAX

- 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

9) Notification No. 53/2020 - Central Tax dated 24th June 2020

The Central Government on the recommendations of the Council brings following amendments in the notification No. 4/2018 - Central Tax, dated the 31st December, 2017.

It states that the amount of late fee shall stand waived for the registered person who fails to file form GSTR-1(Outward Supply) by the due date but furnishes the same on or before the date mentioned in column (3) of below table.

Sr.no (1)	Month/quarter (2)	Date (3)
1	March 2020	10th July 2020
2	April 2020	24th July 2020
3	May 2020	28th July 2020
4	June 2020	5th August 2020
5	Jan-March 2020	17th July 2020
6	April- June 2020	3rd August 2020

10) Notification No. 55/2020 - Central Tax dated 27th June, 2020

The Central Government on the recommendations of the Council has further extended time limits for completion of any action to be taken either by the authority or by any person.

Where, any time limit for completion or compliance of any action falls within the period between 20th day of March 20 to 30th day of August 20 and such action has not been made, then the time limit for completion or compliance of such action, shall be extended up to 31st day of August 2020.

Action shall include filing of any appeal, documents or reports, approval or sanction of any order, issuance of any notice, intimation etc.

INDIRECT TAX

11) Notification No. 56/2020 - Central Tax dated 27th June, 2020

The Government, with recommendations from Council, has amended Notification No.46/2020-Central Tax, dated the 9th June, 2020.

Notification No.46/2020-Central Tax stipulates that in case time limit for issuing order against refund claim falls between 20th March, 2020 to 29th June, 2020, the

due date will extend to 15 days from date of receipt of reply to the notice issued by the registered person or 30th June whichever is later.

In this above provision, '29th June, 2020' will be substituted by '30th August, 2020', and '30th June, 2020' by '31st August, 2020.'

12) Notification No. 57/2020 - Central Tax dated 30th June, 2020

The Central Government, on recommendation of the council, hereby insert below proviso to the Notification No. 52/2020.

a) The total amount of late fee payable in excess of Rs. 250/- per tax period for the period Feb 2020 to July 20 shall stand waived provided the said returns are furnished by 30th day of September 2020 and shall be fully waived when the total amount of central tax payable in the said return is Nil.

The above proviso is also applicable for taxpayers having aggregate turnover exceeding Rupees 5 crore for the month of May 20 to July 20.

❖ Circulars

1) Circular No. 139/09/2020 - GST, Dated 10th June, 2020

Various representation have been received seeking clarification on the issue relating to accumulated ITC of those invoices not reflected in GSTR-2A of the applicant.

Earlier refund was admissible even in respect of Invoices the details of which were not reflected in GSTR-2A of the applicant.

However, in wake of insertion of Rule 36 (4) of the CGST Act, the matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to those Invoices, the details of which are reflected in GSTR-2A of the applicant.

INDIRECT TAX

However, the Circular No 135/05/2020 shall not have any impact on refund in case of Imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc.

For further details refer below link.

https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_139_9_2020.pdf

2) Circular No. 140/10/2020 - GST, Dated 10th June, 2020

There are certain clarifications issued in respect of levy of GST on Director's remuneration which are summarized as follows:

- a) If director is not a whole-time director and if he is an independent director then he may be a person who is not an employee of company. Hence services provided by them to the Company shall not be in the course of employer employee relation and therefore will be taxable under Reverse Charge Mechanism i.e. Company shall be liable to pay GST on the consideration provided to them.
- b) If director is working in dual capacity i.e. as director of the company and the other on the basis of the contractual relationship of master and servant with the company, in such case GST shall be payable on the basis on which TDS is deducted under the Income Tax Act, 1961.
 - If TDS is deducted on consideration paid u/s 192 of the Income Tax Act, 1961, in such case it shall not be taxable under GST as it being consideration for services by an employee to the employer.
 - If TDS is deducted on consideration paid u/s n 194J of the Income Tax Act, 1961(Professional / Technical services), in such case GST shall be payable by the company under RCM as there is lack of employer employee relationship.

For further details refer below link.

https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_140_10_2020.pdf

3) Circular No. 141/11/2020 - GST, Dated 24th June, 2020

Clarification is issued in respect of various measures announced by the Government for providing relief to the taxpayers which are as follows:

INDIRECT TAX

a) There is a change in manner of calculation of Interest.

- **Taxpayers having aggregate turnover exceeding 5 crore.**

A lower rate of Interest of NIL for first 15 days after the due date of filing GSTR-3B and 9%p.a thereafter till 24.06.2020. After the specified date (i.e. 24.06.2020), normal rate of Interest at the rate 18% p.a. shall be charged for any further delay in furnishing of the return.

- **Taxpayers having aggregate turnover below 5 crore.**

The Notification provides for NIL rate of Interest till the specified date and 9%p.a. would apply till 30.09.2020. After 30.09.2020, normal rate of Interest at the rate of 18%p.a. shall be charged for any further delay in furnishing of the return.

b) Manner of calculation of Late fee

In case the return in form GSTR-3B for the period Feb to July 20 are not furnished within the specified dates mentioned in the Notification No. 52/2020, then late fee shall be payable from the due date of return, till the date on which return is filed.

For further details refer below link.

https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_141_11_2020.pdf

- Complied by Madhura Sabnis and Naziya Shaikh.

RBI**1. RBI/2019-20/250****FIDD.CO.FSD.BC.No.25/05.02.001/2019-20****Interest Subvention (IS) and Prompt Repayment Incentive (PRI) for Short Term Loans for Agriculture including Animal Husbandry, Dairy and Fisheries for extended period on account of Covid-19**

- In view of the extension of lockdown and continuing disruption on account of COVID-19, the [RBI vide circular dated May 23, 2020](#) has permitted all lending institutions to extend moratorium by another three months, i.e., upto August 31, 2020.
- For the benefit of the farmers so that they do not pay higher interest during the extended moratorium period, the Government has decided to continue the availability of 2% IS and 3% PRI to farmers for the extended period of repayment upto August 31, 2020 or date of repayment, whichever is earlier.
- This benefit will be applicable to all short-term loans for Agriculture and Animal Husbandry, Dairy and Fisheries (AHDF) upto Rs. 3 lakh per farmer (upto Rs. 2 lakh for AHDF farmers).

2. RBI/2019-20/258**DOR(NBFC)(PD)CC.No.112/03.10.001/2019-20****Loans Sourced by Banks and NBFCs over Digital Lending Platforms: Adherence to Fair Practices Code and Outsourcing Guidelines**

- Due to Difficult times, Banks and NBFCs have adhered in providing hassle free loans to retail individuals, small traders, and other borrowers.
- Banks and NBFCs are also seen to be engaging digital platforms to provide loans to their customers.
- In addition, some NBFCs have been registered with Reserve Bank as 'digital-only' lending entities while some NBFCs are registered to work both on digital and brick-mortar channels of credit delivery.
- Thus banks and NBFCs are observed to lend either directly through their own digital platforms or through a digital lending platform under an outsourcing arrangement.

- It has been observed lately that there are several complaints against the lending platforms which primarily relate to exorbitant interest rates, non-transparent methods to calculate interest, harsh recovery measures, unauthorized use of personal data and bad behavior.
- Although digital delivery in credit intermediation is a welcome development, concerns emanate from non-transparency of transactions and violation of extant guidelines on outsourcing of financial services and Fair Practices Code, etc. issued to banks and NBFCs
- It is, therefore, reiterated that banks and NBFCs, irrespective of whether they lend through their own digital lending platform or through an outsourced lending platform, must adhere to the Fair Practices Code guidelines in letter and spirit. They must also meticulously follow regulatory instructions on outsourcing of financial services and IT services.
- It must be noted that outsourcing of any activity by banks/ NBFCs does not diminish their obligations, as the onus of compliance with regulatory instructions rests solely with them. Wherever banks and NBFCs engage digital lending platforms as their agents to source borrowers and/ or to recover dues, they must follow the following instructions:
 - a. Names of digital lending platforms engaged as agents shall be disclosed on the website of banks/ NBFCs.
 - b. Digital lending platforms engaged as agents shall be directed to disclose upfront to the customer, the name of the bank/ NBFC on whose behalf they are interacting with him.
 - c. Immediately after sanction but before execution of the loan agreement, the sanction letter shall be issued to the borrower on the letter head of the bank/ NBFC concerned.
 - d. A copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement shall be furnished to all borrowers at the time of sanction/ disbursement of loans.
 - e. Effective oversight and monitoring shall be ensured over the digital lending platforms engaged by the banks/ NBFCs.
 - f. Adequate efforts shall be made towards creation of awareness about the grievance redressal mechanism. In view of the extension of lockdown and continuing disruption on account of COVID-19, the RBI vide [circular dated May 23, 2020](#) has permitted all lending institutions to extend moratorium by another three months, i.e., upto August 31, 2020.

**3. RBI/2019-20/259
DOR.No.Ret.BC.77/12.02.001/2019-20**

Section 24 of the Banking Regulation Act, 1949 – Maintenance of Statutory Liquidity Ratio (SLR) – Marginal Standing Facility (MSF)

- In addition to the earlier circulars in March 2020, on Marginal Standing Facility (MSF) Scheme; the borrowing limit of scheduled banks under the MSF scheme, by dipping into the prescribed SLR, was increased from 2 per cent to 3 per cent of their Net Demand and Time Liabilities (NDTL) outstanding at the end of the second preceding fortnight with immediate effect. This relaxation was available up to June 30, 2020.
- It has now been decided to extend this enhanced limit till September 30, 2020.

**4. RBI/2019-20/260
DOR.No.Ret.BC.78/12.01.001/2019-20**

Section 42(1) of the Reserve Bank of India Act, 1934 - Change in Minimum Daily Maintenance of the Cash Reserve Requirement

- As per earlier circulars the minimum daily maintenance of the Cash Reserve Ratio (CRR) was reduced from 90 per cent of the prescribed CRR to 80 per cent effective the fortnight beginning March 28, 2020 till June 26, 2020.
- Keeping in view the continuing of hardships faced by banks in terms of social distancing of staff and consequent strains on reporting requirements, it has now been decided to extend the relaxation of the minimum daily maintenance of the Cash Reserve Ratio of 80 per cent for a further period of three months, i.e., up to September 25, 2020.

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

- *Compiled by Arluv Almeida*

CIRCULARS

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 upto 30th September, 2020.

Scheme for relaxation of time for filing forms related to Creation or Modification of charges under the Companies Act, 2013

Section 77 of the Companies Act, 2013 talks about the **DUTY TO REGISTER CHARGE:**

A company creating charge, shall, register the particulars of the said charge with the ROC within 30 days of its creation.

This charge could be:

- On its property or assets or
- Any of its undertakings
- Whether tangible or otherwise

> Situated in or outside India

> Signed by both the Company and the Charge-Holder

> Together with the instruments creating the charge

Section 78: **Application for registration of a Charge**

Where a company fails to register the Charge within the period specified above, then the person in whose favour the Charge is created may apply to the Registrar for registration of the charge along with the instrument created for the Charge in **Form Nos. CHG-1, CHG -9**, as the case may be. The registrar may, on such application by the person on whose name the Charge is created, gives a notice to the company about such application. Then the company may itself register the Charge or show sufficient cause as in why such Charge should not be registered, i.e. comply or explain the basis. Upon failure on part of the company, the Registrar may allow the registration of such Charge within fourteen days after giving notice to the company.

Where registration is affected on application of the person in whose favour the Charge is created, that person shall be entitled to recover from the company, the amount of any fee or additional fee paid by him to the Registrar for the purpose of registration of Charge.

The companies are required to file forms related to creation or modification of charges as provided in Section 77 of the Companies Act, 2013 within a total of 120 days of the creation or modification of charge. In case, the company fails to register the charge within the period of thirty days referred to in sub-section (1) of section 77, the charge holder may file the form related to creation or modification of charges under section 78 of the Act, within the timelines under Section 77. Due to pandemic caused by the COVID-19, many representations were received by the Ministry requesting for the relaxation of charge related form as this was not provided under the Companies Fresh Start Scheme, 2020. Hence, they have suggested for some exemptions on the part of charge related documents.

There is a new scheme introduced, **“Scheme for relaxation of time for filing forms related to creation or modification of charge under Companies Act, 2013”** for filing of Condonation of Delay of creation / modification of charge. This scheme shall be applicable from the date of issue of this circular in respect of filing of Form No. CHG-1 and Form No. CHG-9. This scheme is applicable if,

- (a) is before 01.03.2020, but the timeline for filing such form had not expired under section 77 of the Act as on 01.03.2020, **or**
- (b) falls on any date between 01.03.2020 to 30.09.2020 (both dates inclusive).

Relaxation of time: In case, the form is not filed within such period, the first day after 29.02.2020 shall be taken as 01.10.2020 for the purpose of counting the number of days within which the form is required to be filed under section 77 or section 78 of the Act. In case a form is filed in the period beginning from the date of creation/ modification of charge to 30.09.2020 shall not be reckoned for the purpose of counting of days under section 77 or section 78 of the Act. In case, the form is not filed within such period, the first day after the date of creation / modification of charge shall be reckoned as 01.10.2020 for the purpose of counting the number of days within which the form is required to be filed under section 77 or section 78 of the Act.

Applicable Fees:

- (a) If the form is filed on or before 30.09.2020, the fees payable as on 29.02.2020 under the Fees Rules for the said form shall be charged. If the

form is filed thereafter, the applicable fees shall be charged under the Fees Rules after adding the number of days beginning from 01.10.2020 and, ending on the date of filing plus the time period lapsed from the date of the creation of charge till 29.02.2020

- (b) If the form is filed before 30.09.2020, normal fees shall be payable under the Fees Rules. If the form is filed thereafter, the first day after the date of creation/modification of charge shall be reckoned as 01.10.2020 and the number of days till the date of filing of the form shall be counted accordingly for the purposes of payment of fees under the Fees Rules.

The Scheme shall not apply, in case:

- (a) The forms i.e. CHG-1 and CHG-9 had already been filed before the date of issue of this Circular.
- (b) The timeline for filing the form has already expired under section 77 or section 78 of the Act prior to 01.03.2020.
- (c) The timeline for filing the form expires at a future date, despite exclusion of the time provided in sub-para (iii) above.
- (d) Filing of Form CHG-4 for satisfaction of charges.

Clarification with regard to creation of deposit repayment reserve of 20% u/s. 73 (2) (C) of the Companies Act, 2013 and to invest or deposit 15% of amount of debentures u/r.18 of Companies (Share capital and Debentures) Rules, 2014 - COVID-19 -Extension of time

As per the extensions made in the circular of 24th March, 2020 till 30th June 2020 for the Deposit Repayment Reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 and Requirement under rule 18 of the Companies (Share Capital & Debentures) Rules, 2014 to invest or deposit at least 15% of amount of debentures maturing in specified methods of investments or deposits before 30th April 2020. A further extension of time is made for compliance of the subject requirements on account of COVID-19. It has been decided to further extend the time from 30th June 2020 to 30th September 2020. All other requirements shall remain unchanged.

- *Compiled By Mridula Tawde*

HUNAR HAAT



- *Praanav Vatani*

Allow us to tell you more!



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