

**R.C.JAIN AND ASSOCIATES LLP**

**NEWSLETTER**

**February**

**2021**

*"You develop courage by surviving  
difficult times and challenging  
adversity"*

*-Barbara De Angelis*



R. C. Jain and Associates LLP

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**Income Tax**

**1. DUE DATE EXTENDED FOR FILING DECLARATION UNDER VIVAD SE VISHWAS SCHEME:**

- The Central Board of Direct Taxes has further extended the due date for filing Vivad Se Vishwas scheme till 31<sup>st</sup> March 2021.
- Date for payment without additional amount under Vivad Se Vishwas extended to 30<sup>th</sup> April 2021.

**2. TIMELIMIT EXTENDED FOR IMPOSITION OF PENALTY UNDER CHAPTER XXI:**

- The Central Board of Direct Taxes has extended the time limit for imposing penalty under Chapter XXI to 30<sup>th</sup> June 2021.

\*Penalty under Chapter XXI covers penalty for under reporting and misreporting of income, failure to furnish returns, penalty for false entry in books of accounts, penalty for failure to deduct TDS and TCS, penalty for failure to furnish statement of financial transaction or reportable account etc.

**3. TIMELIMIT EXTENDED FOR PASSING ORDER UNDER BENAMI PROPERTY TRANSACTION ACT:**

- Last date for the completion of any action as referred to in clause (a) of sub section (1) of Section 3 of the act or passing any order under sub section (3) of Section 26 of the Benami Act is 30<sup>th</sup> June 2021. Now this time limit extended to 30<sup>th</sup> September 2021.

**4. TIMELIMIT EXTENDED FOR PASSING ASSESSMENT OR REASSESSMENT:**

As per Budget 2021 last date for passing assessment or reassessment order for the AY 18-19 and AY 19-20 is 31-03-2021. Now this time limit extended to 30<sup>th</sup> April 2021.

**5. CONSTITUTION OF DISPUTE RESOLUTION COMMITTEE FOR SMALL AND MEDIUM TAXPAYERS:**

## **DIRECT TAX**

- It considers only those disputes where the returned income is fifty lakh rupees or less (if there is a return) and the aggregate amount of variation proposed in specified order is ten lakh rupees or less.
- If the specified order is based on a search initiated under section 132 or requisition made under section 132A or a survey initiated under 133A or information received under an agreement referred to in section 90 or section 90A, of the Act, such specified order shall not be eligible for being considered by the DRC.
- Assessee would not be eligible for benefit of this provision if there is detention, prosecution or conviction under various laws as specified in the proposed section.

### **6. ALLOWING PRESCRIBED AUTHORITY TO ISSUE NOTICE UNDER CLAUSE (I) OF SUBSECTION (1) OF SECTION 142:**

- Section 142 provides for conduct of inquiry before assessment. This section empowers to the Assessing Officer to issue notice to an assessee who has not submitted a return of income, asking for submission of return. However, this power can be currently invoked by the Assessing Officer.
- It is proposed to amend the provision of the Section 142 to empower the prescribed income-tax authority to enable centralized issuances of notices, besides the Assessing Officer to issue notice under this clause.

*-Compiled by Bhavesh Bang*

**Case Laws:**

**1) Issue Involved:**

The fact that the agricultural land been sold to an industrial unit and had potential to be used for industrial purpose, could not be a determinative factor to treat profit earned by assessee on sale of agriculture land as business income.

- **In the Hon'ble High Court of Gujarat in case of Heenaben Bradesh Mehta vs PCIT Rajkot -1 , [Assessment Year: 2009-10]**

**GIST OF THE CASE:**

The assessee filed return of income wherein profits from sale of agricultural land was claimed as exempt on the ground that the said land was not a capital asset within the meaning of Section 2(14). The AO rejected the claim of the assessee mainly on the ground that the land in question was sold to an industrial unit and had potential to be used for industrial purpose. The Tribunal however accepted the assessee's claim.

**Held:**

The Hon'ble High Court of Gujarat held that the AO had treated the profit earned by the assessee from sale of agriculture lands as business income mainly on the grounds that (i) the land was sold to the company, which used the said land for industrial purpose; (ii) that there was a steep rise in the profit and (iii) that the lands were sold within a short span of time. However, it is required to be noted and it is not in dispute that as such, what was sold by the assessee was agriculture land. In the revenue record also, land was shown as agricultural land. It is also required to be noted that the agriculture land in question sold by assessee after a period of approximately 15 to 16 months from purchase. Therefore, as such, it cannot be said that the agriculture lands were sold within a short span of time. It is also required to be noted that the assessee is an agriculturist and also belongs to family of agriculturists. Further, the High Court also observed that the intention of the purchaser

cannot be the determinative factor to treat the profit earned by the assessee on sale of agriculture land as business income.

**2) Issue Involved:**

The assessee sold a house property including furniture in house and purchased another residential house, and it was found that cost of furniture sold was much lesser against amount shown by assessee.

➤ **In the Hon'ble ITAT of New Delhi, in the case of Devinder Kumar v. ITO Ward 68(2) [AY 2013-14]**

**GIST OF THE CASE:**

The assessee sold a house property for Rs. 70.10 lakhs and purchased a residential house for Rs. 73.83 lakhs which included an amount of Rs. 4.14 lakhs as stamp duty. The assessee claimed the entire amount of long term capital gains as exempt under section 54. The Assessing Officer found that the sale consideration of the property included an amount of Rs. 10 lakhs towards sale of furniture available in the house at the time of sale of property. The assessee had executed an agreement for sale of furniture. To ascertain the genuineness of the sale consideration of furniture, the Assessing Officer conducted necessary enquiries and summons with whom agreement of sale of furniture was executed. Summons was also issued from whose accounts the payments were made for the alleged sale of furniture. All these three persons admitted that exchange of some furniture was involved but the cost involved was around Rs. 3 to 3.5 lakhs. These persons also admitted that main purpose of agreement of sale of furniture was to reduce the stamp duty involved in the transaction. Considering these facts, the transaction of sale of furniture were determined at Rs. 3 lakhs and, accordingly, sale consideration of long term capital gains were determined at Rs. 60 lakhs and the amount of Rs. 7 lakhs was treated as unexplained cash credit under section 68.

**Held:**

The Hon'ble ITAT held that there was no merit in case of the assessee. It was not in dispute that assessee received Rs.10 lakhs towards sale of furniture in the house at the time of sale of the property. The main purpose of the agreement was to reduce the stamp duty involved in the transaction to evade stamp duty on the sale deed. These facts have not been disputed by the

## **DIRECT TAX**

assessee during the course of assessment proceedings through any evidence or material on record. The assessee did not dispute the statement of these persons with whom the agreement to sale was executed. These facts clearly prove the case of the Assessing Officer that the genuineness of the claim of the assessee for receipt of Rs.10 lakhs as sale consideration on furniture has not been proved. The authorities below have, therefore, correctly determined the value of sale consideration of furniture etc., at Rs.3 lakhs. Therefore, the authorities below were justified in considering the addition of Rs.7 lakhs in the hands of the assessee. Since the agreement to sale was executed to inflate the value of the furniture so as to evade the stamp duty and also to evade proper payment of long term capital gains, therefore, authorities below rightly rejected the explanation of assessee.

*-Compiled by Kshitij Agrawal*

**GST**

**Notifications**

**1) Notification No. 03/2021-Central Tax, Dated 23<sup>rd</sup> February, 2021**

As per the notification the Central Government has made amendment in the CGST Rules, 2017 under Sec 25 (6D) which says about GST Registration,

The following person are not liable for registration under Sec 22 & 24;

- a) Not a citizen of India; or
- b) A department or establishment of the central government or state government; or
- c) A local authority; or
- d) A statutory body; or
- e) A public sector undertaking; or

A person applying for registration under the provision of sub-section (9) of Sec 25 of the said Act.

**2) Notification No. 04/2021-Central Tax, Dated 28<sup>th</sup> February, 2021**

As per this notification the time limit for furnishing GST Annual Return & Audit for the FY 2019-20 is extended to 31.03.2021

*-Compiled by Jay Gudhka*



**RBI****1. RBI/2020-21/74****Ref.No. DoS.CO.CSITE.SEC. No.1852/31.01.015/2020-21****Master Direction on Digital Payment Security Controls**

- Going by the pre-eminent role being played by digital payment systems in India, RBI gives highest importance to the security controls around it. Now it is proposed to issue Reserve Bank of India (Digital Payment Security Controls) Directions 2020, for regulated entities to set up a robust governance structure for such systems and implement common minimum standards of security controls for channels like internet, mobile banking, card payments, among others. While the guidelines will be technology and platform agnostic, it will create an enhanced and enabling environment for customers to use digital payment products in more safe and secure manner.

**2. RBI/2020-21/99****Ref.No. A.P. (DIR Series) Circular No. 11****Remittances to International Financial Services Centres (IFSCs) in India under the Liberalised Remittance Scheme (LRS)**

With a view to deepen the financial markets in International Financial Services Centres (IFSCs) and provide an opportunity to resident individuals to diversify their portfolio, the extant guidelines on Liberalised Remittance Scheme (LRS) have been reviewed and it has been decided to permit resident individuals to make remittances under LRS to IFSCs set up in India under the Special Economic Zone Act, 2005, as amended from time to time. Accordingly, AD Category - I banks may allow resident individuals to make remittances under LRS to IFSCs in India, subject to the following conditions:

- The remittance shall be made only for making investments in IFSCs in securities, other than those issued by entities/companies resident (outside IFSC) in India.
- Resident Individuals may also open a non-interest-bearing Foreign Currency Account (FCA) in IFSCs, for making the above permissible investments under LRS. Any funds lying idle in the account for a period upto 15 days from the date of its receipt into the account shall

be immediately repatriated to domestic INR account of the investor in India.

- Resident Individuals shall not settle any domestic transactions with other residents through these FCAs held in IFSC.

3. **RBI/2020-21/88**

Ref.No.DoS.CO.PPG./SEC.05/11.01.005/2020-21

**Risk-Based Internal Audit (RBIA): Responsibilities and Other General Expectations**

RBI vide [circular DBS.CO.PP.BC.10/11.01.005/2002-03 dated December 27, 2002](#), had introduced Risk-Based Internal Audit (RBIA) system in Scheduled Commercial Banks (SCBs) as part of their internal control framework, which was further supplemented vide [circular DoS.CO.PPG./SEC.04/11.01.005/2020-21 dated January 07, 2021](#). This framework relies broadly on a well-defined policy for internal audit, functional independence with sufficient standing, effective channels of communication and adequate audit resources with sufficient professional competence.

For more details refer :

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12018&Mode=0>

4. **RBI/2020-21/89**

Ref.No. DOR.CRG.CRS.Cir.No.5/13.05.000/2020-21

**Loans and advances to directors, their relatives, and firms / concerns in which they are interested**

The Banking Regulation Act, 1949 (“the Act”) has been amended by the Banking Regulation (Amendment) Act, 2020 notified for the Primary (Urban) Co-operative Banks (UCBs) on September 29, 2020 and deemed to have been effective from June 29, 2020. Consequently, section 20 of the principal Act has become applicable to UCBs. Keeping in view the above, the extant directions on the subject issued to UCBs have been reviewed and the revised directions are issued as under:

UCBs shall not make, provide or renew any loans and advances or extend any other financial accommodation to or on behalf of their directors or their relatives, or to the firms / companies / concerns in which the directors or their relatives are interested (collectively called as “**director-related loans**”).

## **RBI**

Further, the directors or their relatives or the firms / companies / concerns in which the directors or their relatives are interested shall also not stand as surety/guarantor to the loans and advances or any other financial accommodation sanctioned by UCBs. 'Advances' for the purpose shall include all types of funded / working capital limits such as cash credits, overdrafts, credit cards, etc.

- The following categories of director-related loans shall, however, be excluded from "loans and advances" for the purpose of these directions:
  1. Regular employee-related loans to staff directors, if any, on the Boards of UCBs;
  2. Normal loans, as applicable to members, to the directors on the Boards of Salary Earners' UCBs;
  3. Normal employee-related loans to Managing Directors / Chief Executive Officers of UCBs;
  4. Loans to directors or their relatives against Government Securities, Fixed Deposits and Life Insurance Policies standing in their own name.

For more explanation refer

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12019&Mode=0>

### **5. RBI/2020-21/90**

**Ref.No.DOR.No.Ret.BC.35/12.01.001/2020-21**

#### **Maintenance of Cash Reserve Ratio (CRR)**

- The cash reserve ratio (CRR) of all banks was reduced by 100 basis points to 3.00 per cent of their Net Demand and Time liabilities (NDTL) effective from the reporting fortnight beginning March 28, 2020. The dispensation was available for a period of one year ending March 26, 2021.
- It has been decided to gradually restore the CRR in two phases in a non-disruptive manner. Accordingly, banks are required to maintain the CRR at 3.50 per cent of their NDTL effective from the reporting

fortnight beginning March 27, 2021 and 4.00 per cent of their NDTL effective from fortnight beginning May 22, 2021.

6. **RBI/2020-21/91**

**Ref. No.DOR.No.Ret.BC.36/12.01.001/2020-21**

**Maintenance of Statutory Liquidity Ratio (SLR) - Marginal Standing Facility (MSF) - Extension of Relaxation**

Referring to the earlier circular dated 27 March 2020, DOR.No.Ret.BC.52/12.01.001/2019-20 wherein the banks were allowed to avail of funds under the MSF by dipping into the Statutory Liquidity Ratio (SLR) up to an additional one per cent of their net demand and time liabilities (NDTL), i.e., cumulatively up to three per cent of NDTL. This facility, which was initially available up to June 30, 2020 was later extended in phases up to March 31, 2021 providing comfort to banks on their liquidity requirements and also to enable them to meet their Liquidity Coverage Ratio (LCR) requirements.

With a view to providing comfort to banks on their liquidity requirements, banks are allowed to continue with the MSF relaxation for a further period of six months, i.e., up to September 30, 2021.

7. **RBI/2020-21/92**

**Ref. No.DOR.No.Ret.BC.37/12.01.001/2020-21**

**Credit to MSME Entrepreneurs**

- Scheduled Commercial Banks will be allowed to deduct the amount equivalent to credit disbursed to 'New MSME borrowers' from their Net Demand and Time Liabilities (NDTL) for calculation of the Cash Reserve Ratio (CRR).
- For the purpose of this exemption, 'New MSME borrowers' shall be defined as those MSME borrowers who have not availed any credit facilities from the banking system as on January 1, 2021.
- This exemption will be available only up to ₹25 lakh per borrower disbursed up to the fortnight ending October 1, 2021, for a period of one year from the date of origination of the loan or the tenure of the loan, whichever is earlier.

8. **RBI/2020-21/100**

**Ref. No.DOR.No.MRG.BC.41/21.06.200/2020-21**

**Capital and provisioning requirements for exposures to entities with Unhedged Foreign Currency Exposure (All Scheduled Commercial Banks excluding RRBs)**

Referring to the earlier circular [DBOD.No.BP.BC.116/21.06.200/2013-14 dated June 3, 2014](#) based on capital and provisioning requirements for exposures to entities with Unhedged Foreign Currency Exposure (UFCE) which mandated that information on UFCE may be obtained by banks from entities on a quarterly basis, on self-certification basis, and preferably should be internally audited by the entity concerned.

On receiving representations from banks expressing their inability in obtaining UFCE certificates from listed entities for the latest quarter due to restrictions on disclosure of such information prior to finalisation of accounts, it has been decided that in such cases, banks may use data pertaining to the immediate preceding quarter for computing capital and provisioning requirements in case of Unhedged Foreign Currency Exposures.

*-Compiled by Sailee Rawle*

**ROC**

**1. Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, In Rule 25:**

“(1A) A scheme of merger or amalgamation under section 233 of the Act may be entered into between any of the following class of companies, namely:-

- (i) two or more start-up companies; or
- (ii) one or more start-up company with one or more small company

For the purposes of this sub-rule, “start-up company” means a private company incorporated under the Companies Act, 2013.

**2. Companies (Specification of Definitions Details) Rules,2014,Clause (85) OF Section 2:**

**Following Change in Definition Of Small Company:**

“Paid up capital and turnover of the small company shall not exceed rupees two crores and rupees twenty crores respectively

**3. Companies (Incorporation ) Rules, 2014:**

**Following Change in Rule 3:**

For the words “Resident in India” the words “whether resident in India or otherwise” shall be substituted; for the words —“one hundred and eighty two days the words” the words “one hundred and twenty days” shall be substituted;

**Following Change in Rule 6:**

- The One Person Company shall alter its memorandum and articles by passing a resolution in accordance with subsection (3) of section 122 of the Act to give effect to the conversion and to make necessary changes incidental thereto.

➤ A One Person company may be converted into a Private or Public Company, other than a company registered under section 8 of the Act, after increasing the minimum number of members and directors to two or seven members and two or three directors, as the case may be, and maintaining the minimum paid-up capital as per the requirements of the Act for such class of company and by making due compliance of section 18 of the Act for conversion.

➤ The company shall file an application in e-Form No.INC-6 for its conversion into Private or Public Company, other than under section 8 of the Act, along with fees as provided in the Companies (Registration offices and fees) Rules, 2014 by attaching documents, namely:-

(a) Altered MOA and AOA;

(b) copy of resolution;

(c) the list of proposed members and its directors along with consent;

(d) list of creditors; and

(e) the latest audited balance sheet and profit and loss account.

(4) On being satisfied that the requirements stated herein have been complied with, the Registrar shall approve the

form and issue the Certificate.

**Following Change in Rule 7:**

a) in sub-rule (1), the words — having paid up share capital of fifty lakhs rupees or less and average annual turnover during the relevant period is two crore rupees or less shall be omitted.

(b) in sub-rule (4), in clause (i), the words —,the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees, as the case may be shall be omitted.

**Following Change in Forms:**

(a) the e-Form No.INC-5 shall be omitted.

(b) for the e-Form No.INC-6, the following form shall be substituted

**4. Companies (Specification Of Definitions Details) Rules, 2014**

**Following Rule shall be inserted namely:**

**2A.** Companies not to be considered as listed companies.- For the purposes of the proviso to clause (52) of section 2 of the Act, the following classes of companies shall not be considered as listed companies, namely:-

- (1) Public companies which have not listed their equity shares on a recognized stock exchange but have listed their –
  - (i) non-convertible debt securities issued on private placement basis in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008; or
  - (ii) non-convertible redeemable preference shares issued on private placement basis in terms of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013; or
- (2) both categories of (i) and (ii) above.
- (3) Private companies which have listed their non-convertible debt securities on private placement basis on a recognized stock exchange in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008;
- (4) Public companies which have not listed their equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in sub-section (3) of section 23 of the Act.

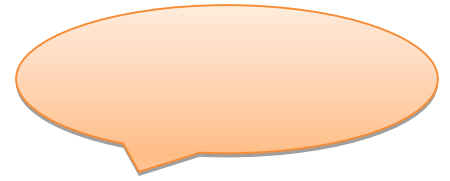
**5. Sections of Companies Act applicable to LLPs**

Under section 67(1) of LLP Act, 2008 will be extending Sub- sections (1) to (11) of section 90, Sub- sections (1) and (2) of section 164 , Sub-sections (1) and (3) to (6) of section 165, Sub-section (1) to (3) of section 167, Sub-section (5) of section 206, sub-section (3) of section 207, Sub-sections (1) to (3) of section 252 and Sub-sections (1) to (4) of Section 439 of the Companies Act, 2013 to limited liability Partnerships with modification and adaptation soon. Accordingly, limited liability Partnerships, Partners and Designated partners thereof are advised to take note of the same for appropriate action.

*-Compiled by Devika Gangapuram*



*The DID You know section.....*



The Nike sign isn't a tick or check mark!!!

Originally called BRS (Blue Ribbon Sports), the company was renamed after Nike, the winged Greek goddess of victory. The famous "swoosh" symbol that's been its logo ever since represents her wings and speed.



Allow us to tell you more!



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