

**R C JAIN AND ASSOCIATES LLP**

**NEWSLETTER**

**November**

**2020**

*"The Future belongs to those who  
believe in the beauty of their  
dreams."*

*-Eleanor Roosevelt*



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**Income Tax**

**1. INCOME TAX RELIEF FOR REAL-ESTATE DEVELOPERS AND HOME BUYERS IN ATMANIRBHAR BHARAT PACKAGE 3.0.:**

There was a key announcements to promote the real estate sector in Atmanirbhar Bharat Pacakge-3.0 whereby Relief from Notional Taxation u/s 43CA & 50C is given to certain categories of taxpayers.

Up to 2018, section 43CA of the Income-tax Act, 1961 ('the Act') provided for deeming of the stamp duty value (circle rate) as sale consideration for transfer of real-estate inventory in the case the circle rate exceeded the declared consideration. Consequentially, stamp duty value was deemed as purchase consideration in case of buyer under section 56(2)(x) of the Act.

The deeming provisions triggered only where the difference between the sale/purchase consideration and the circle rate was more than 5% as the safe harbour provided by the Finance Act, 2018. In order to provide further relief in this matter, Finance Act, 2020 increased this safe harbour from 5% to 10%.

Tolerance limit for variation between actual sale consideration and stamp duty valuation has been enhanced. Present differential between circle rate and agreement value in real estate income tax under Section 43CA of Income Tax Act-1961 has been increased from 10% to 20%.

However, this has been made applicable for primary sale of residential units up to ₹ 2 Crore from date of announcement of this scheme, till June 30 2021.

The tolerance limit has been done not only for seller but also the buyers of these units under section 56(2)(x) of IT Act for the said period. The exact fine print of the law is not yet released as the necessary amendment to IT Act would be proposed in due course.

**2. CBDT TO VALIDATE UNIQUE DOCUMENT IDENTIFICATION NUMBER (UDIN) GENERATED FROM ICAI PORTAL AT THE TIME OF UPLOAD OF TAX AUDIT REPORTS**

It may be noted that, in consonance with the requirement of mandatory generation of UDIN for every kind of certificate/tax audit report and other attests made by their members in gazettee dated 2<sup>nd</sup> Aug 2019 by ICAI , Income-tax e-filing portal had already factored mandatory quoting

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of UDIN with effect from 27<sup>th</sup> April, 2020 for documents certified/attested in compliance with the Income-tax Act,1961 by a Chartered Accountant. With this system level integration, UDIN provided for the audit reports/certificates submitted by the Chartered Accountants in the e-filing portal shall be validated online with the ICAI. This will help in weeding out fake or incorrect Tax Audit Reports not duly authenticated with the ICAI.

If for any reason, a Chartered Accountant was not able to generate UDIN before submission of audit report/certificate, the Income-tax e-filing portal permits such submission, subject to the Chartered Accountant updating the UDIN generated for the form within 15 calendar days from the date of form submission in the Income-tax e-filing portal. If the UDIN for the audit report/certificate is not updated within the 15 days provided for the same, such audit report/certificate uploaded shall be treated as invalid submission.

### **3. STANDARD OPERATING PROCEDURE (SOP) FOR PERSONAL HEARING THROUGH VIDEO CONFERENCE UNDER THE FACELESS ASSESSMENT SCHEME, 2019**

As per the CIRCULAR F. NO. PR. CCIT/NeAC/SOP/2020-21, DATED 23-11-2020,

The Principal Chief Commissioner of Income Tax, National e-assessment Centre, with the prior approval of the Central Board of Direct Taxes, New Delhi, lays down the following circumstances in which personal hearing through Video Conference shall be allowed in the Faceless Assessment Scheme, 2019:

Where any modification is proposed in the draft assessment order (DAO) issued by any AU and the Assessee or the authorized representative in his/her written response disputes the facts underlying the proposed modification and makes a request for a personal hearing, the CCIT ReAC may allow personal hearing through Video Conference, after considering the facts & circumstances of the case, as below:-

1. The Assessee has submitted written submission in response to the DAO.
2. The Video Conference will ordinarily be of 30 minutes duration. It may be extended on the request of the Assessee or authorised representative.

3. The Assessee may furnish documents/evidence, to substantiate points raised in the Video Conference during the session or within a reasonable time allowed by the AU, after considering the facts and circumstances of the case.

*-Compiled By Hiloni Shah*

**Case Laws:**

**1. Issue Involved :-**

Is it allowable as per the provision of the Income Tax law to allow bad debts on account of inter corporate debt and advances in contravention of Section 36(1)(vii) read with Section 36(2) of the Act inspite of the fact that the assessee company is not a banking company or engaged in the business of money lending? What are the pre-requisites that allows the debt to be treated as bad debt under the provisions of the Income Tax Laws.

**Pr. Commissioner of Income Tax - 10, Mumbai Vs. Hybrid Financial Services Limited. In the High Court of Judicature at Bombay.**

Appeal Number:- Income Tax Appeal No. 1265 of 2017 & Income Tax Appeal No. 1469 of 2017.

**GIST OF THE CASE:**

- During the assessment proceedings for the A.Y. 2001-02, Assessing Officer noticed that assessee engaged in the business of providing finance in the field of lease and higher purchase transaction, management consultancy services etc had claimed bad debts of Rs. 13,01,04,359.00. While in three cases, assessee had written off inter corporate deposits, in respect of four cases, the written off of bad debts pertains to advances given either for purchase of vehicles or plant and machinery. Referring to Section 36(1)(vii) of the Act, Assessing Officer took the view that unless there was an admitted debt it could not be allowed as bad debt when it is written off. Besides, the debt must be incidental to the business or profession of the assessee. Taking such view, Assessing Officer issued notice to the assessee to show cause as to why the amounts covered by the bad debts should not be added to the income of the assessee. Assessee in its reply stated that writing off any debt as irrecoverable in the accounts was sufficient compliance to Section 36(1)(vii) of the Act. However, by the assessment order dated 19.2.2004 passed under Section 143(3) of the Act, Assessing Officer did not accept the reply submitted by the assessee. Assessing Officer held that a debt is allowable only when it is a debt arising out of and is incidental to the trade carried out by the assessee. After the first Appellant Authority affirmed with the views of the Assessing Officer, the Hon'ble ITAT in it's order allowed the claim of the Assessee company by placing its reliance on T.R.F. Ltd Vs. CIT2 wherein Supreme Court held as below.

**HELD:-**

- "In the judgement of Hon'ble High Court of Bombay, it was held that, Comparing the provision of Section 36(1)(vii), pre 1.4.1989 and post 1.4.1989, Supreme Court held that the position in law has become well settled
- This Court referred to the decision of the Supreme Court in T.R.F. Ltd (supra) and held that under Section 36(1)(vii) of the Act, the amount of any bad debt or any part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year is to be allowed as deduction in computing income under Section 28 of the Act. 17.
- Thus, it is a settled position in law that after 1.4.1989, it is not necessary for the assessee to establish or prove that the debt has in fact become irrecoverable but it would be sufficient if the bad debt is written off as irrecoverable in the accounts of the assessee.
- Recording of a debt as a bad debt being based on a commercial or business decision in his books of accounts by the assessee prima facie establishes that it is a bad debt.
- If the Assessing Officer disputes that the onus would be on him to prove otherwise, that be the position, then there is compliance to the requirement of Section 36(1)(vii) of the Act and the amount covered by the bad debts would be entitled to be deducted while computing income under Section 28 of the Act.
- Further, it is not necessary, rather there is no requirement under the Act or of law that the bad debt has to accrue out of income under the same head i.e. 'income from business or profession' to be eligible for deduction.
- All that is required is that the debt in question must be written off by the assessee in its books of accounts as irrecoverable. In the light of the above, we do not find any error or infirmity in the view taken by the Tribunal. No question of law arises from the order of the Tribunal. Consequently, appeal filed at the instance of the revenue fails and is accordingly dismissed. However, there shall be no order as to costs".

**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 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

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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 situate 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 residential unit. Also the remaining seven flats have been sanctioned for commercial purposes The aforesaid fact cannot be permitted to act as impediment to 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,



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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. In the result, appeal is allowed."

*-Compiled by Shweta Keswani*

**GST**

**Notifications**

**1) Notification No. 81/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

As per this notification, following changes will be effective from 10<sup>th</sup> November, 2020.

1. Proviso is added in section 39(1) of CGST act, which states that government may on recommendation of GST council notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.
2. Proviso is added in section 39(7) of CGST act, which states that person who is filing return as per proviso of 39(1) and as per 39(2) is required to pay the tax dues monthly in the manner as may be prescribed.

**2) Notification No. 83/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

The time limit for furnishing the details of outward supplies in FORM GSTR-1 of the CGST Rules, 2017, for each of the tax periods Extended till 11th day of the month succeeding such tax period. The time limit for furnishing the details of outward supplies in FORM GSTR-1 of the CGST Rules, 2017 for the class of registered persons required to furnish quarterly return under proviso to section 39(1) of the CGST Act, 2017 Extended till 13th of the month succeeding such tax period.

The above notification will be effective from 01<sup>st</sup> January, 2021.

**3) Notification No. 84/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

- A. As\_per\_this notification, person that will be opting Quarterly filing of GSTR-3b shall have to fulfil following conditions namely:
1. The return for preceding month should have been furnished as per due date, while applying for such exercise option.

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2. Once option exercised will continue for the future tax period until revised.
- B. If after exercising this option aggregate turnover 5 crore rupees in a Quarter of a F.Y. then such person shall not be eligible to file GSTR-3B quarterly from first month of succeeding quarter.
- C. For the registered person falling in the class specified in column (2) of the Table below, who have furnished the return for the tax period October, 2020 on or before 30th November, 2020, it shall be deemed that they have opted under sub-rule (1) of rule 61A of the said rules for the monthly or quarterly furnishing of return as mentioned in column (3) of the said Table:-

Sr.no	Class of registered person	Deemed Option
(1)	(2)	(3)
1	Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished FORM GSTR1 on quarterly basis in the current financial year	Quarterly return
2	Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished FORM GSTR1 on monthly basis in the current financial year	Monthly return
3	Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year	Quarterly return

- D. The registered persons referred to in column (2) of the said Table, may change the default option electronically, on the common portal, during the period from the 5th day of December, 2020 to the 31st day of January, 2021.

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### **4) Notification No. 85/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

As per this notification, person who opted for quarterly filing of GSTR-3B need to make payment of Tax dues every month by way of making deposit in E-Cash Ledger an amount equivalent to

- (i) 35% of the tax liability paid by debiting the E-cash ledger in the return for the preceding quarter where the return is furnished quarterly or
- (ii) The tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided no amount is required to be paid if there is sufficient amount already in E-cash ledger available or where tax liability is Nil.

Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a complete tax period preceding such month.

The above notification will be effective from 01<sup>st</sup> January, 2021.

### **5) Notification No. 86/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

As per this notification, Government cancels the notification no.76/2020 dated 15th October, 2020, which tells us about due date of GSTR-3b for period of October-20 to March-21 in different states.

### **6) Notification No. 87/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

As per this notification, due date of filing GST-ITC-04 for the periods from July-20 to September-20 is extended till 30th November, 2020. The above notification will be effective from 25th October, 2020.

### **7) Notification No. 88/2020–Central Tax, Dated 10<sup>th</sup> November, 2020**

As per this notification, w.e.f 1st Jan 2021, registered person whose aggregate turnover in a financial year exceeds five hundred crore rupees

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shall prepare invoice in terms of sub-rule (4) of rule 48 i.e. by including such particulars contained in GST

INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal.

### **Circulars**

#### **CBEC-20/01/08/2020 -GST**

#### **Quarterly Return Monthly Payment Scheme**

- A taxpayer who has an aggregate turnover of up to 5 crore rupees in the preceding financial year, as calculated by common portal as per the details furnished in the returns by the taxpayer for the tax periods in the preceding F.Y.
- This new Scheme will be effective from 01.01.2021.
- Further, in case the aggregate turnover exceeds 5 crore rupees during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.
- To avail the scheme, a registered person can opt in for any quarter from first day of second month of preceding quarter to the last day of the first month of the quarter. E.g.: A registered person intending to avail of the Scheme for the quarter 'July to September' can exercise his option during 1st of May to 31st of July.
- The registered person under the above scheme has to make payment on monthly basis. While generating challan, taxpayers should select "Monthly payment for quarterly taxpayer" as reason for generating challan.

For Further, refer link below

[https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular\\_Refund\\_143\\_11\\_2020.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_143_11_2020.pdf)

***-Compiled By Saloni Lund***

**RBI****1. RBI/2020-21/63  
FIDD.CO.Plan.BC.No.8/04.09.01/2020-21****Co-Lending by Banks and NBFCs to Priority Sector**

Please refer to the previous months RBI articles on co-origination of loans by banks and NBFCs for lending to priority sector. The arrangement entailed joint contribution of credit at the facility level by both the lenders as also sharing of risks and rewards.

1. The primary focus of the revised scheme, rechristened as “Co-Lending Model” (CLM), is to improve the flow of credit to the unserved and underserved sector of the economy and make available funds to the ultimate beneficiary at an affordable cost, considering the lower cost of funds from banks and greater reach of the NBFCs.
2. In terms of the CLM, banks are permitted to co-lend with all registered NBFCs (including HFCs) based on a prior agreement. The co-lending banks will take their share of the individual loans on a back-to-back basis in their books. However, NBFCs shall be required to retain a minimum of 20 per cent share of the individual loans on their books.
3. The banks and NBFCs shall formulate Board approved policies for entering into the CLM and place the approved policies on their websites. Based on their Board approved policies, a Master Agreement may be entered into between the two partner institutions which shall inter-alia include, terms and conditions of the arrangement, the criteria for selection of partner institutions, the specific product lines and areas of operation, along with provisions related to segregation of responsibilities as well as customer interface and protection issues.
4. The Master Agreement may provide for the banks to either mandatorily take their share of the individual loans originated by the NBFCs in their books as per the terms of the agreement, or to retain the discretion to reject certain loans after their due diligence prior to taking in their books, subject to the conditions.
5. The banks can claim priority sector status in respect of their share of credit while engaging in the CLM adhering to the specified conditions.
6. The CLM shall not be applicable to foreign banks (including WOS) with less than 20 branches.

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7. This circular supersedes the previous months RBI articles. However, outstanding loans in terms of the circular ibid would continue to be classified under priority sector till their repayment or maturity, whichever is earlier.

### **2. RBI/2020-21/66**

#### **A.P. (DIR Series) Circular No. 05**

##### **Discontinuation of Returns / Reports under Foreign Exchange Management Act, 1999**

The attention of Authorized Persons is invited to the Master Direction - Reporting under Foreign Exchange Management Act, 1999 dated January 01, 2016, as amended from time to time, and other reporting related instructions issued by the Reserve Bank of India.

1. With a view to improve the ease of doing business and reduce the cost of compliance, the existing forms and reports prescribed under FEMA, 1999, were reviewed by the Reserve Bank. Accordingly, it has been decided to discontinue the 17 returns/reports with immediate effect.
2. The Master Direction - Reporting under Foreign Exchange Management Act, 1999 dated January 01, 2016, shall accordingly be updated to reflect the above changes. AD banks may bring the contents of this circular to the notice of their constituents.
3. The directions contained in this circular have been issued under Section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required any other law

### **3. RBI/2020-21/68**

#### **DPSS.CO.PD.No.660/02.14.008/2020-21**

##### **Maintenance of Escrow Account with a Scheduled Commercial Bank**

An authorized PPI Issuer or a PA is required to maintain an escrow account with a scheduled commercial bank on an ongoing basis. With a view to diversify risk and address business continuity concerns, it has been decided to allow one additional escrow account in a different scheduled commercial bank. The relevant instructions are being modified as per Annex 1 and 2 to this circular.

These directions are issued under Section 18 read with Section 10(2) of the Payment and Settlement Systems Act, 2007.

For more details, refer the website [rbi.org.in](http://rbi.org.in)

*-Compiled by Aaradhana Pandey*

**ROC**

**1. Extension of LLP Settlement scheme 2020**

MCA circular dated 09.11.2020 extending LLP Settlement Scheme, stated that belated documents due for filing till 30.11.2020 can be filled under the scheme till 31.12.2020

Also the statement of account and solvency for F.Y 2019-20 can be signed beyond 6 months and not later than 30.11.2020 and the same will not form part of non-Compliance

*-Compiled By Ankita Cheepad*



कोरोना योद्धाओं के हौसलों को, आओ मिलकर और बढ़ाते हैं।

सहयोग, समर्पण, दृढ़ विश्वास से, कोरोना को हराते हैं।।

“Covid challenge is not yet over, Work with Double Enthusiasm!”

### CA Ratneshchand Jain

Stating that the challenge is not yet over thrown by the Corona Virus Pandemic is far from over, **Maharashtra Governor Bhagat Singh Koshiyari** called upon the Covid Warriors to continue their work with dedication and double enthusiasm.

**CA RC Jain**, A true leader who leads us not only in professional terms but also on the social front. An entrepreneur who knows that life does not just mean taking from the society, but also returning to it, whenever needed.

It is a proud moment for all of us as we see you receive this award, by the hand of The Governor of Maharashtra, as recognition for your work during these tough times of Covid. You inspire us every bit.

A Glimpse of the award receiving moment by RC Sir from the hands of The Governor of Maharashtra Bhagat Singh Koshiyari:-



## CA Meera Joisher

**The 1st Woman Chartered Accountant in the Bhanushali community!**

*"I never dreamed of Success. I have worked hard for it" ... ..Estee Lauder*

*Well the above quote has been truly accomplished by our dearest Mentor CA Meera Joisher Ma'am.*

*Although she is a great inspiration to all the women out there, It's a pride to have her as a strong pillar with R.C.Jain & Associates LLP, where she exhibits her expertise over a wide array of services. Along with being a mentor to the CA intern students and Professional Colleagues, she also caters to the changing needs of the organization.*

*A perfect example of a Working Female Professional who balances Work, Family & Society in the best possible manner.*

*Do listen to her journey on how she started with a Mid-Size CA firm having joined way back in 2009 as an honorary trainee to being the Senior Partner and an able pillar of our firm. She is our strength and we are equally proud of our gem as are her family members. Kudos to her... God bless her conquer many more milestones.*

*A picture clicked during the online interactive session held by the Bhanushali Working Women*

*Presents Community on the Eye!!!! Held On 22, Nov 2020*



**Allow us to tell you more!**



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