

R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

March 2023

*“Push today for what you want
tomorrow.”*



INDEX

| | |
|---------------------|----|
| 1. Income Tax _____ | 03 |
| 2. Case Law _____ | 05 |
| 3. RBI _____ | 07 |
| 4. GST _____ | 10 |

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- **Consequences of PAN becoming inoperative as per the newly substituted rule 114AAA - reg.**

Rule 114AAA is related to the Permanent Account Number (PAN) issued by income Tax Department of India. The rule was recently amended, and now it states that if a person fails to link their PAN with their Aadhaar number by the deadline specified by the government, their PAN will become inoperative.

Following are the Consequences of PAN becoming inoperative:

1. Refund of any amount of tax or part thereof, due under the provisions of the act shall not be made to him
2. Interest shall not be payable to him on such refund for the period, beginning with the date specified under sub-rule (4) of rule 114aaa and ending with the date on which it becomes operative
3. Where tax is deductible under chapter XVJJ-B in case of such person, such tax shall be deducted at higher rate, in accordance with the provisions of section 206aa

(chapter xvjj-b refers to the provision under income tax act, 1961, related to the tax incentives and benefits available for the employment of new employees. These provisions were introduced in the finance act, 2020, to encourage the creation of new employment opportunities in India.)

(Section 206aa is a provision of the income tax act, 1961, which requires every person who is receiving any taxable income in India to provide their permanent account number (pan) to the person responsible for deducting tax at source (TDS). If a person fails to provide their pan, the TDS deduction will be made at a higher rate of 20%, instead of the normal TDs rate applicable to that particular income.)

4. Where tax is collectible at source under chapter XVJJ-BB in case of such person, such tax shall be collected at higher rate, in accordance with the provisions of section 206cc.

(In addition to non-filing of income tax return, if the specified person does not give their PAN, then tax shall be collected at 20% or rates applicable as per the section, whichever is higher.)

These consequences shall take effect from 1st July, 2023 and continue till the PAN becomes operative. A fee of one thousand rupees will continue to apply to make the PAN operative by intimating the Aadhaar number.

The consequences of PAN becoming inoperative shall not be applicable to those persons who have been provided exemption from intimating Aadhaar number under the provisions of sub-section (3) of section 139AA of the Act. (Section 139AA shall not apply

to an individual who does not possess the Aadhaar number or the Enrolment ID and is -

1. Residing in the States of Assam, Jammu and Kashmir and Meghalaya,
2. A non-resident as per the Income-tax Act, 1961,
3. Of the age of eighty years or more at any time during the previous year
4. Not a citizen of India.)

- **Partial relaxation with respect to electronic submission of Form 10F by select category of taxpayers in accordance with the DGIT (Systems) Notification No. 3 of 2022**

Form 10F is mandatorily filed by those NRI taxpayers who do not have the required details of the Tax Residency Certificate (mandated under the Double Taxation Avoidance Agreement) as well as PAN. Remember TDS is deducted at a higher rate if PAN is not available with an individual.

On consideration of the practical challenge being faced in making compliance as per the above notification, those non-resident (NR) taxpayers who were not having PAN and not required to have PAN as per relevant provisions of the Income-tax Act, 1961 read with Income-tax Rules, 1962, were exempted from mandatory electronic filing of Form 10F till 31st March 2023 by the competent authority.

In view of the continued practical challenges and to mitigate the genuine hardship being faced by such category of taxpayers, it has been decided by the competent authority to extend the above mentioned partial relaxation further till 30th September 2023. For the sake of clarity, it is reiterated that such category of taxpayers may make statutory compliance of filing Form 10F till 30th September 2023 in manual form as was being done prior to issuance of the DGIT (Director General of Income Tax) (Systems) Notification No. 3 of 2022.

Every assessee or e-commerce operator shall furnish the Equalisation Levy Statement under sub-section (1) of section 167 of the Act within the time stipulated. An assessee or e-commerce operator may furnish an Equalisation Levy Statement or a revised Equalisation Levy Statement, as the case may be, at any time before the expiry of two years from the end of the financial year in which the specified services was provided or e-commerce supply or services was made or provided or facilitated.

- Compiled by Rasika Yawalkar

Case Laws:

[2023] 148 taxmann.com 410 (Delhi)
HIGH COURT OF DELHI
OYO Hotels & Homes (P.) Ltd.

vs.

Deputy Assistant Commissioner of Income-tax
RAJIV SHAKDHER AND MS. TARA VITASTA GANJU, JJ.
W.P.(C) NO. 16698 OF 2022
MARCH 23, 2023

Section 241A, read with section 143 of the Income-tax Act, 1961 - Refunds - Power to withhold in certain cases - Assessment year 2020-21 - Assessee-company had filed its return of income declaring certain loss and claimed refund on account of tax deducted at source - Said returns were selected for scrutiny under section 143(2) and a show-cause notice under section 142(1) was issued upon Assessee - Assessee received intimation under section 143(1) that refund had been calculated as due to it and shall be credited within a period of 15 days from date of intimation - However, despite lapse of several months, no refund was received by Assessee - It was noted that while withholding refund, Assessing Officer was required to look into various factors in relation to an Assessee, such as, amount of tax liability which a scrutiny assessment might eventually lead to vis-a-vis, amount of tax refund due; financial standing or credit worthiness of Assessee etc. - However, reasons recorded for withholding refund simply stated that case was selected under CASS with a large number of issues to be examined and mentioned no details of any issue which required examination had been set forth - It was further noted that fact that Assessee was a well reputed company with a large net-worth running into several billion dollars and not a fly-by-night operator was not in dispute - Whether, on facts, impugned order withholding refund was to be set-aside and revenue was directed to conduct a *de novo* exercise as per provision of section 241A - Held, yes [Para 12] [In favour of Assessee]

Sujit Ghosh, Ms. Mannat Waraich and Ms. Anshika Agarwal, *Advvs. for the Petitioner.* Puneet Rai *for the Respondent.*

[2023] 149 taxmann.com 1 (SC)
SUPREME COURT OF INDIA
Assistant Commissioner of Income-tax, Circle-8

vs.

Vodafone Essar Gujrat Ltd.
S. RAVINDRA BHAT AND DIPANKAR DATTA, JJ.
SPECIAL LEAVE PETITION (CIVIL) DIARY NO(S). 7912 OF 2023

MARCH 29, 2023

DIRECT TAX

Section 80-IA, read with section 79, of the Income-Tax Act, 1961 - Deductions - Profits and gains from infrastructure undertakings (Computation of deduction) - Assessment year 2005-06 - Assessee-company was in business of providing cellular telecommunication services and was established in year 1997-98 - During assessment year 2001-02, there was a change in shareholding of assessee-company, as a result of which provisions of section 79 were made applicable and accumulated losses from assessment years 1997-98 to 2001-02 lapsed - Assessee-company being a telecommunication service provider was eligible for 100 per cent deduction under section 80-IA and made a claim for deduction under section 80-IA for first time for assessment year 2005-06 - Assessing Officer disallowed deduction on basis that there would not be any positive profit available for deduction after considering losses prior to assessment year 2001-02 to be set off against income of current year because for purpose of calculation of deduction under section 80-IA read with section 80-IA(5), provisions of section 79 could not be applied - High Court by impugned order held that since by virtue of section 79 business loss of assessee prior to year 2001-02 had already lapsed, same could not be notionally carried forward and set off against profit and gains of assessee's business for year under consideration in computing quantum of deduction under section 80-IA(1) - Whether special leave petition against said impugned order was to be dismissed, however, issue of eligibility of claim, set off of losses for subsequent assessment years was to be kept open - Held, yes [Paras 2 and 3] [In favour of assessee] N. Venkatraman , A.S.G. Rupesh Kumar, Mr. Alka Agarwal, S.A. Haseeb, Anita Sahni, V.C. Bharathi , Ms. Alka Agrawal, Syed Abdul Haseeb, Sandeep Pandhi, Manish Pushkarna, Advs. Raj Bahadur Yadav, AOR *for the Petitioner*. Sachit Jolly, Ms. Soumya Singh, Ms. Disha Jham, Sohun Dua, Advs. and Ms. B. Vijayalakshmi Menon, AOR *for the Respondent*.

ORDER

1. Delay condoned.
2. Having heard counsel for the parties, this Court is of the opinion that no interference is called for.
3. However, the issue of eligibility of claim, set off of losses for subsequent assessment years (2002-2003 to 2004-2005) is however kept open.

- Compiled by Abhinav Shandilya

1. RBI/2022-23/184

DGBA.GBD.No.S1469/42-01-029/2022-2023

March 16, 2023

Reporting and Accounting of Central Government transactions for March 2023

All Agency Banks

- Procedure to be followed for reporting and accounting of Central Government transactions (including CBDT, CBIC, Departmentalized Ministries and Non-Civil Ministries) at the Receiving/Nodal/Focal Point branches of your bank for the Financial Year 2021-22.
- The Government of India has decided that the date of closure of residual transactions for the month of March 2023 be fixed as April 10, 2023. As regards reporting of March 2023 transactions by Nodal/Focal Point branches in April 2023, the branches may be advised to follow the procedure as outlined in the **Annex**. Also, while reporting transactions pertaining to March 2023 up to April 10, 2023, the transactions of April 2023 should not be mixed up with the residual transactions relating to March 2023. To sum up, the nodal/Focal Point branches will be required to prepare separate set of scrolls, one pertaining to March 2023 residual transactions and another for April transactions during the first 10 days of April 2023. These instructions regarding special messenger arrangements may please be informed to all branches concerned.
- The Nodal/Focal Point branches should also ensure that the accounts for all transactions (revenues/tax collections/payments) are effected at the receiving branches up to March 31, 2023 in the accounts for the current financial year itself and are not mixed up with the transactions of April 2023.
- Kindly issue necessary instructions in the matter to your branches concerned immediately.

Refer **Annex**.

- Beginning from April 1, 2023, the Nodal/Focal Point branches will segregate on a daily basis all scrolls/challans pertaining to March 2023 received from the receiving branches concerned and prepare separate main challans for:
 - (a) Challans (scrolls) for transactions of March 2023 or earlier period (i.e. effected during the previous financial year 2022-23) and
 - (b) Challans (scrolls) pertaining to current transactions (i.e. those effected from April 1, 2023 onwards).

- These scrolls along with the copies of daily summary of Receipts and Payments prepared separately for March 2023 transactions will be forwarded to the Departmental Officials concerned (i.e. The Nodal/Focal Point branches will also be required to report the above transactions to the Link Cell through separate Daily Memos. In other words, serial number should be allotted in consecutive order for each main scroll of March 2023 transactions sent from April 1 to April 10, 2023. Zonal Accounts Officers/Pay and Accounts Officers and Designated Officers) in the usual way. The statement of March (Residual) Transactions should be sent by all Focal Point Branches to Zonal Accounts Officers/Pay and Accounts Officers latest by April 18, 2023. On receipt of advices from the Nodal/Focal Point branches, the Link Cell should segregate the advices for the March Residual transactions and forward them separately to Reserve Bank of India, CAS, Nagpur. In order to distinguish the April 2023 (financial year 2023-24) and March Residual Transactions, the statement pertaining to March Residual Transactions should be clearly marked as "March Residual Account". The main scrolls for March 2023 transactions prepared from April 1 to April 10, 2023 are to be distinctly marked as March Residual - 1, March Residual - 2 and so on upto April 10, 2023. These advices must be sent to enable the Link Cell of each bank at Nagpur, to make daily settlement with Reserve Bank of India, Central Accounts Section (CAS) Nagpur. This procedure should continue upto and inclusive of April 10, 2023 only. All transactions reported thereafter by the receiving branches will be reported and accounted for in the usual manner in the accounts of the month of report irrespective of the date of transaction.

2. BI/2022-23/190
CO.DPSS.RPPD.No.S2185/03-01-002/2022-2023
March 29, 2023

Special Clearing Operations on March 31, 2023

Applicable to,

All Scheduled Commercial Banks including Regional Rural Banks /
Urban Co-operative Banks / State Co-operative Banks /
District Central Co-operative Banks / Local Area Banks / Payment Banks/
Small Finance Banks / National Payments Corporation of India.

- Addressed to all the agency banks on Annual Closing of Government Accounts - Transactions of Central/State Governments - Special Measures for the Current Financial Year (2022-23).
- Normal clearing timings as applicable to any working "Friday" shall be followed on March 31, 2023. Further, to facilitate accounting of all the Government transactions for the current financial year (2022-23) by March 31, 2023, it has been decided to

conduct Special Clearing exclusively for Government Cheques across the three CTS grids on March 31, 2023 as detailed below:

| Location | Presentation Clearing | Return Clearing |
|---|-------------------------------|-------------------------------|
| CTS Grids (New Delhi, Chennai and Mumbai) | Between 17:00 and 17:30 Hours | Between 19:00 and 19:30 Hours |

- It is mandatory for all banks to participate in the special clearing operations on March 31, 2023. All the member banks under the respective CTS Grids are required to keep their inward clearing processing infrastructure open during the Special Clearing hours and maintain sufficient balance in their clearing settlement account to meet settlement obligations arising out of the Special Clearing.
- Member banks under the respective CTS Grids are advised to adhere to the instructions contained in this circular as well as instructions issued by the President of the respective CTS grids. Member banks may also be guided by the circular NPCI/2016-17/CTS/Circular No.32 dated October 3, 2016 issued by NPCI to all member banks regarding clearing type for instruments to be presented in Special Clearing sessions.

- Compiled by Yagnik Koriya

INDIRECT TAX

GST

Notifications:

Waivers of Late Fees for composition tax payers if return is filed on or before 30th June,2022 (Notification No. 02/2023–Central Tax, Dated 31th March, 2023)

The amount of late fee payable under section 47 shall be waived off for composition dealer (i.e. GSTR-4) as below: -

| Particulars | GST Implications |
|----------------------------------|--|
| In case of Nil Return | 100% Late Fees waived off |
| In case of Other than Nil Return | Late Fees amount in excess of Rs.250/- shall be waived off |

The above benefit is applicable for the Financial years from 2019-20 to 2021-22 only if the returns are filed between 01st April, 2023 to 30th June, 2023.

Extension of time limit for application for revocation of cancellation of GST registration (Notification No. 03/2023–Central Tax, Dated 31th March, 2023)

The registered person whose registration has been cancelled as per section 29(2) under clause (b) or clause (c) on or before the 31st December, 2022, and who has failed to apply for revocation of cancellation within the time limit specified in section 30.

Such class of registered persons can follow special procedure in respect of revocation of cancellation of such registration: -

- (a) The registered person may apply for revocation of cancellation of such registration up to 30th June, 2023

(b) The application for revocation shall be filed only after furnishing the returns due up to the effective date of cancellation of registration and after the payment of any amount due towards tax, interest, penalty and late fee.

(c) No further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Notification No. 04/2023-Central Tax, dated 31th March, 2023 (Aadhar Authentication to be done at Facilitation Centers as notified by commissioner in case of certain people

Where an applicant, other than a person notified in section 25(6D), shall complete the process of Aadhar authentication, whichever is earlier of the following

(a) As and when he submits the application

or

(b) Within fifteen days from the submission of the application in "FORM GST REG-01 (Part B)"

Provided that every application made under sub-rule (4) by a person, other than a person notified under section 25(6D), who has opted for authentication of Aadhar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified as per section 25(6C) of where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this said proviso.

This notification shall be deemed to have come into force from 26th December, 2022.

Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62 (Notification No. 06/2023-Central Tax, Dated 31th March, 2023)

INDIRECT TAX

The registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th February, 2023 under section 62(1) of the said Act. The classes of registered persons, who follows special procedures as specified below. It is deemed that said assessment order have been withdrawn.

- (a) The registered persons shall furnish the said return on or before the 30th June, 2023
- (b) The return shall be accompanied by payment of interest due as per section 50 (1) and with late fee payable as per section 47 of the said Act, irrespective of whether or not an appeal had been filed against such assessment order under section 107.

Rationalization or Reduction of late fee for GSTR-9 and Amnesty to GSTR-9 Non-filers (Notification No. 07/2023-Central Tax, Dated 31th March, 2023)

The Central Government on the recommendations of Council hereby waives off the amount of late fee referred to in section 47 in respect of the return which is required to be furnished under section 44 (Annual Return) for the F.Y. 2022-23 onwards

| Sr. No. | Class of registered persons | Amount |
|---------|---|--|
| 1. | Registered persons having an aggregate turnover of up to five crore rupees in the relevant financial year. | Twenty-five rupees per day, Maximum up to 0.02% of turnover in the State or Union territory. |
| 2. | Registered persons having an aggregate turnover of more than five crores rupees and up to twenty crore rupees in the relevant financial year. | Fifty rupees per day, Maximum up to 0.02% of turnover in the State or Union territory. |

INDIRECT TAX

Provided that the registered person who have not filed Annual return as per section 44 within due date for the F.Y.2017-2018 to F.Y.2021-2022 but files the said return between 01st April,2023 to 30th June,2023 the late fees shall be waived off which is in excess of Ten Thousand Rupees.

Amnesty to GSTR-10 Non-filers - Waiver of Late Fees (Notification No. 08/2023-Central Tax, Dated 31th March, 2023)

The Central Government on the recommendations of Council hereby waives the amount of late fee in excess of Rs. 5,000/- who fails to furnish the Final return GSTR-10 within the due date only if the said return is filed between 01st April,2023 to 30th June,2023.

Extension of limitation for Departmental Audit under Section 168A of CGST Act (Notification No. 09/2023-Central Tax, Dated 31th March, 2023)

The Central Government on the recommendation of Council as per section 73 (9) & Section 73 (10) hereby extends the time limit for Recovery of Tax on account of Taxes not paid, Short payment of tax, & Input tax credit wrongly availed or utilized for the period mentioned below: -

- (a) For the F.Y. 2017-2018 up to 31st December, 2023;
- (b) For the F.Y. 2018-2019 up to 31st March, 2024;
- (c) For the F.Y. 2019-2020 up to 30th June, 2024.

Circular:

GST Rate on "RAB" (Circular No. 191/2023-GST, Dated 27th March, 2023)

As per recommendation of GST council in 49th meeting, held on 18th February, 2023, GST rate on Rab will be as follows: -

INDIRECT TAX

| Particular | GST Rate |
|--|----------|
| When sold in labelled & Pre-Packaged form | 5% |
| When sold in other than labelled & Pre-Packaged form | Nil |

The above rate will come in effect from 1st March, 2023

- Compiled by Gaurav Chande

Allow us to tell you more!



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