

R.C.JAIN AND ASSOCIATES LLP

NEWSLETTER

May
2021

“Always remember people who have helped you along the way, and don’t forget to lift someone up”

-Roy T Bennett



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DIRECT TAX

Income Tax

1. GOVERNMENT EXTENDS TIMELINES FOR CERTAIN COMPLIANCES

In view of the adverse circumstances arising due to the severe Covid-19 pandemic and also in view of the several requests received from taxpayers, tax consultants & other stakeholders from across the country

Sr No	Particulars	Original Due Date	Extended Due Date
1.	TDS Return Q4 FY 20-21	31/05/2021	30/06/2021
2.	Issue of TDS Certificate in form 16 of Q4 FY 20-21	15/06/2021	15/07/2021
3.	ITR (Audit not Applicable) FY 20-21	31/07/2021	30/09/2021
4.	Tax Audit Report/Other Audit Report FY 20-21	30/09/2021	31/10/2021
5.	ITR (Audit Applicable) FY 20-21	31/10/2021	30/11/2021

It should be kept in mind concerning the filing of income tax return, that the due date has been extended only for filing of return. Hence interest u/s 234A shall continue to be leviable where the self-assessment tax payable exceeds Rs. 1 lakh and return is filed after the original due date.

2. RULE 11UD FOR SIGNIFICANT ECONOMIC PRESENCE OF NON RESIDENT

CBDT notifies new Income Tax Rule 11UD. Thresholds for the purposes of significant economic presence vide Notification No. 41/2021 which states as the amount of aggregate of payments arising from transaction or transactions in respect of any goods, services or property carried out by a non-resident with any person in India, including provision of download of data or software in India during the previous year, shall be two crore rupees and the number of users with whom systematic and continuous business activities are solicited or who are engaged in interaction shall be three lakhs.

3. CBDT NOTIFIES LTC CASH VOUCHER SCHEME

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CBDT has notified the amendment in Rule 2B of the Income Tax Rules where the provisions relating to exemption in respect of Cash Allowance received in lieu of Leave Travel Concession (LTC) has been incorporated. The move would be beneficial to the employees who had not been able to avail of LTC in the block of 2018-21 due to the COVID-19 pandemic and the nationwide lockdown.

As per the amended rules, a new provision, specified employees, who avails any cash allowance from his employer in lieu of any travel concession or assistance for himself and the members of his family, will get an exemption up to thirty-six thousand rupees or one-third of the specified expenditure, whichever is less, subject to conditions prescribed.

Explanation has been introduced to explain the meaning of the terms 'tax invoice', 'registered person', 'specified expenditure' and 'specified period'.

Where an exemption on value in lieu of any travel concession or assistance received by, or due to, such individual, is claimed and allowed, the same shall be available to an individual in respect of one journey performed in a block of four calendar years commencing from the calendar year 1986.

The notification shall be deemed to have come into force from April 1, 2021

4. SEC 269ST RELAXATION ON CASH PAYMENT TO HOSPITALS

Govt vide Notification No. 56/2021-Income Tax Dated: 7th May, 2021 specifies Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities providing Covid treatment to patients for the purpose of Section 269ST of the Income-tax Act, 1961 for payment received in cash (Rs 2Lakh or more) during 01.04.2021 to 31.05.2021 on obtaining PAN and Aadhaar of Patient and Payer and the relationship between payer and the patient.

5. SLUMP SALE TO BE CARRIED AT FAIR VALUE (RULE 11UAE)

CBDT has notified Rule 11UAE for computing the fair market value of the capital assets for the purpose of computing the full value of the consideration as per clause (ii) of sub-section (2) of section 50B.

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As per the notified Rules, the basic principle of determining the full value of consideration in case of an exchange of assets in a slump sale is the fair market value of the assets transferred or the fair market value of the assets received in the slump sale, whichever is higher is to be considered. Both the FMVs of the assets transferred and received are to be determined as per Rule 11UAE.

It should be noted that this Rule 11UAE also refers to the valuation method as prescribed in Rule 11UA(1) for the valuation of shares and securities, if any, and is involved in the exchange of assets in the slump sale.

Further, the valuation shall be done on the date of slump sale both under Rule 11UAE and Rule 11UA.

Rule 11UAE has four sub-rules as discussed below:

Sub-Rule (1) of Rule 11UAE

Rule 11UAE(1) prescribes the fair market value (FMV) of the assets transferred in slump sale.

It prescribes the value shall be the higher of -

- the FMV of the capital assets as determined as per Rule 11UAE(2), termed as FMV1,
- or
- the FMV of the capital assets as determined as per Rule 11UAE(3), termed as FMV2

Sub-Rule (2) of Rule 11UAE

Rule 11UAE(2) prescribes the formula to determine the FMV1. In other words, the FMV1 shall be the fair market value of the capital assets transferred by way of slump sale shall be determined in accordance with the formula-

$$\text{FMV1} = \text{A+B+C+D-L}$$

FMV1 = fair market value (FMV) of the assets transferred in slump sale determined as per rule 11UAE(2)

A = book value of all the assets as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale subject to some deductions.

The 'assets' shall not include the following assets: Jewellery, Artistic work, Shares & Securities and Immovable Property.

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B,C and D are the valuation rules for the excluded assets. Thus-

B = Value of Jewellery and Artistic work shall be the open market sale price as per valuation report obtained from a registered valuer

C = Value of Shares & Securities shall be determined as per Rule 11UA(1)

D = Value of Immovable Property shall be the stamp duty value or the circle rate adopted by the state government

L= book value of liabilities as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale subject to some exclusions.

Tabular presentation of computation of FMV1-

Book Value of all Assets		Rs. xxxx
Less: The following Assets		
Jewellery	(-)xxxx	
Artistic work	(-)xxxx	
Shares & Securities	(-)xxxx	
Immovable Property	(-)xxxx	
Income-tax paid - Income-tax refund claimed	(-)xxxx	
Book Value of Assets	Value of 'A' in the formula	Rs. xxxx
Market Price of Jewellery	Value of 'B' in the formula	Rs. xxxx
Market Price of Artistic work	Value of 'B' in the formula	Rs. xxxx
Value of Shares & Securities as per Rule 11UA(1)	Value of 'C' in the formula	Rs. xxxx
Stamp Duty Value of Immovable Property	Value of 'D' in the formula	Rs. xxxx
Value of All the Assets	A+B+C+D	Rs. xxxx
Less: Book of all the Liabilities	Rs. xxxx	
Paid-up equity share capital	(-)xxxx	
Proposed Dividend	(-)xxxx	
Reserves and Surplus	(-)xxxx	

Provision for tax	(-)xxxx	
Provisions made for meeting liabilities	(-)xxxx	
Contingent liabilities	(-)xxxx	
Value of Net Liabilities		Rs. (-)xxxx
FMV1	As per Rule 11UAE(2)	Rs. xxxx

Sub-Rule (3) of Rule 11UAE

Rule 11UAE(3) prescribes the formula to determine the FMV2. In other words, the FMV2 shall be the fair market value of the capital assets received or accrued as a result of transfer by way of slump sale shall be determined in accordance with the formula-

$$\text{FMV2} = \text{E} + \text{F} + \text{G} + \text{H}$$

Where,

FMV2 = fair market value of the consideration received or accruing as a result of transfer by way of slump sale determined as per rule 11UAE(3)

E = Value of the monetary consideration received or accruing as a result of the transfer

F = fair market value of non-monetary consideration received or accruing as a result of the transfer for property covered by Rule 11UA(1) shall be determined as per Rule 11UA(1)

G = fair market value of non-monetary consideration received or accruing as a result of the transfer for property not covered in rule 11UA(1) then the open market price of such property to be ascertained on the basis of the valuation report obtained from a registered valuer

H = fair market value of non-monetary consideration received or accruing as a result of the transfer for an immovable property, the stamp duty value adopted or assessed or assessable by the state government

Tabular presentation of computation of FMV2-

<u>Monetary Consideration</u>		
E. Value of Money		Rs. Xxxx
<u>Non-monetary Consideration</u>		

F. If the property is covered by Rule 11UA(1) (a) Jewellery (b) Archaeological collections, drawings, paintings, sculptures or any work of art (c) Shares and securities	Value as per Rule 11UA(1)	Rs. Xxxx
G. Any other movable properties	Open Market Price	Rs. Xxxx
H. Immovable Property	Circle Rate or Stamp Duty Value	Rs. Xxxx
FMV2	E+F+G+H	Rs. xxxx

Sub-Rule (4) of Rule 11UAE

Rule 11UAE(4) prescribes the 'date of valuation' of the properties. It prescribes that the fair market value of the capital assets under sub-rule (2) and sub-rule (3) shall be determined on the date of slump sale and for this purpose valuation date referred to in rule 11UA shall also mean the date of slump sale.

Comment:

While the Finance Act, 2021 has brought slump exchange to tax from FY 2020-21, the Rules for computing the acquisition cost is prescribed only now. The Notification does not specifically mention as to the date from which the Rule 11UAE shall be effective. Hence, it is possible to contend that this Rule should be applicable only from the date of publication in the Official Gazette. Hence, in respect of slump sale concluded prior to the rule being notified, one could contend that there should not be any tax liability and to that extent the amendment is infructuous.

-Compiled by Ritik Karotra

DIRECT TAX

Case Laws:

1) Issue Involved:

Can the loss suffered by erstwhile partnership firm, which was dissolved, be carried forward for set off by individual partner who took over the business of firm as sole proprietor?

➤ **In the Hon'ble High Court of Delhi, in case of Pramod Mittal vs CIT [ITA 67/2012]**

GIST OF THE CASE

The facts briefly are that the assessee was partner of a firm with his brother. The assessee succeeded to the business by way of family settlement which also dissolved the firm with effect from 18.09.2004. The petitioner, who took over the business, assets, liabilities and affairs of the ongoing business, filed a return in which he claimed set-off of the losses of the erstwhile firm. These losses were by way of unrecoverable expenses over the income of the erstwhile firm. The Assessing Officer (AO), the CIT (A) and later the Income Tax Appellate Tribunal (ITAT) rejected the claim on the ground that Section 78(2) did not entitle the assessee to it

HELD

Provision of section 170(1) relevant extracts from which are as follows:

Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession, -

(a) the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession;

(b) the successor shall be assessed in respect of the income of the previous year after the date of succession."

On writ, Delhi High Court held that the partnership firm was dissolved and the takeover of the running business of the firm by the erstwhile partner as a sole proprietor was not a case of succession by inheritance. Hence, the carry forward of losses of the firm by the sole proprietor for set-off against his income is not allowed.

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2) Issue Involved:

Foreign Exchange Gain arising due to repayment of personal loan by Non Resident living Abroad be taxable under "Income From Other Sources"?

- **In the ITAT of Mumbai, in the case of Aditya Balkrishna Shroff v. ITO, Mumbai - [2021]. (5 May, 2020).**

GIST OF THE CASE:

During the scrutiny assessment, Assessing Officer (AO) notices that as per AIR information and as per the capital account of assessee, assessee received Rs. 1,12,35,326. When AO probed this entry further, assessee explained that he had extended a personal interest-free loan to his cousin in Singapore. The remittance was made under the LRS (Liberalized Remittance Scheme) issued by the Reserve Bank of India. Due to a change in the exchange rate, the amount received on repayment was more than the amount originally advanced. AO opined that such a difference on account of this transaction was of income nature. Assessee submitted that the loan account was purely personal. It was not in the nature of a business transaction. The loan transaction was in terms of LRS, and it was a permitted Capital Account transaction. It was further explained that the transaction was in the capital field, and therefore the gain is in the nature of capital receipt and hence not offered for taxation. AO didn't accept assessee's contentions and made additions to the income of assessee.

HELD:

On appeal, ITAT held that a capital receipt, in principle, is outside the scope of 'income' chargeable to tax and a receipt cannot be taxed as income unless it is in the nature of a revenue receipt or is specifically brought within ambit of 'income' by way of specific provisions of the Income-tax Act", and that "Howsoever liberal or narrow be the interpretation of expression 'income', it cannot alter character of a receipt i.e. convert a capital receipt into a revenue receipt or vice versa. There is no warrant for inference that even the most liberal interpretation of 'income' can nullify or blur the all-important distinction between capital receipt or revenue receipt". If the transaction was in the capital

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field, where the question of a capital receipt being taxed as income arises unless there was a specific provision of bringing such a capital receipt to tax.

In any case, where the loan was foreign currency-denominated and the amount advanced as loan, as also received back as repayment, was exactly the same, there was no question of interest component at all. The benefit or gain received by assessee was on account of foreign exchange fluctuation.

Since the foreign exchange fluctuation was with respect to a transaction in the capital field, the foreign exchange fluctuation receipt itself turned out to be a capital receipt. The ITAT judgement was given in favour of assessee on the basis that the forex gain was attributable to a Capital Transaction (loan transaction) and hence Non-Taxable.

-Compiled by Tarun Lakhani

INDIRECT TAX

GST

Notifications

1) Notification No. 08/2021-Central Tax, Dated 1ST May, 2021

As per this notification the amendment made to provide relief by lowering of interest rate for the month of March and April, 2021.

S r. No.	Taxpayer	Aggregate turnover in the preceding FY.	Rate of Interest	Period
1	Regular Taxpayer	More than 5 Cr	9% for first 15 days from due date and 18% thereafter.	March, 2021, April, 2021
2	Regular Taxpayer - Monthly scheme or Quarterly scheme	Upto 5 Cr.	No interest for 1 st 15 days, 9% for next 15 days from due date & 18% thereafter.	March, 2021, April, 2021
3	Composition Taxpayers, Taxpayer required to deduct TDS or collect TCS under GST	-----	No interest for first 15 days, 9% for next 15 days from due date & 18% thereafter.	Quarter ending March, 2021.

This notification shall be applicable from 18th April, 2021

2) Notification No. 09/2021-Central Tax, Dated 1st May, 2021

As per this notification the amendment made in respect of late fees waived for the month of March and April, 2021

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r. No.	Taxpayer	Aggregate turnover in the preceding FY.	Period for which late fees waived	Period
1	Regular Taxpayer	More than rupees 5 Cr	15 days from due date	March, 2021 & April, 2021
2	Regular Taxpayer - Monthly scheme	Upto 5 Cr	30 days from the due date	March, 2021 & April, 2021
3	Regular Taxpayer - Quarterly scheme	Upto 5 Cr	30 days from the due date	January-March, 2021

This notification shall be applicable from 20th April, 2021

3) Notification No. 10/2021-Central Tax, Dated 1st May, 2021

As per this notification the Government has extended the due date for filing Annual Return (GSTR-04) by Composition Dealer i.e. 31st May, 2021 for the FY 20-21. This notification shall be applicable from 30th April, 2021

4) Notification No. 11/2021-Central Tax, Dated 1st May, 2021

As per this notification the Government has extended the due date for furnishing of FORM ITC-04 (Job work Details) for the period Jan-March, 2021 till 31st May, 2021. This notification shall be applicable from 25th April, 2021

5) Notification No. 12/2021-Central Tax, Dated 1st May, 2021

As per this notification the Government has extended the due date for furnishing of FORM GSTR-1 (Outward Details) for the period April, 2021 till 26th May, 2021.

6) Notification No. 13/2021-Central Tax, Dated 1st May, 2021

As per this notification the following amendments are made:

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1. Extended the due date for furnishing of Outward Details through IFF (quarterly scheme) for the period April, 2021 from 1st May till 28th May, 2021.

2. Restriction in respect to claiming ITC beyond 5% of ITC (Input Tax Credit) reflected in GSTR-2A for the April 21 & May 21 (separately), but same shall not apply where taxpayer have to furnish GSTR-3B cumulative adjustment of ITC (quarterly scheme).

7) Notification No. 14/2021-Central Tax, Dated 1st May, 2021

As per this notification the Government has extended the certain due dates are as follows,

(i) Where any time limit for completion and compliance of any action, by authority or by any person, such time limit falls under 14.04.21 to 30.05.21 is extended upto the 31.05.21 which includes the following purpose;

a. Completion of any proceeding or passing of any order or issuance of notice, notification, sanction or approval by the officer's.

b. Filing of any appeal, reply or application or furnishing of any report, documents, returns or such other records.

But, such extension of time shall not be applicable for the compliances of the following provisions of the said Act, namely: -

1. Time of supply

2. Provision relating to Composition dealer liable for regular registration, Regular registration, Casual taxable person or non-resident taxable person, Tax invoice, GSTR-1, levy of late fee, interest on delayed payment of tax, power to arrest, Liability of partners of firms to pay tax, Penalty for certain offences, Detention, seizure and release of goods and conveyances in transit.

3. Taxpayer required to furnish return by Input service Distributor, non-resident taxable, deduct Tax at source.

4. For compliance of E-way bill related provision u/s 68 i.e. generation of e-way bill, inspection of goods in movement u/s 68 etc.

5. Rule 9 of CGST Rules, 2017 i.e. Verification of the documents submitted and approval of application in respect to Registration, where the time limit for such action falls during the

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period from 01.05.21 to 31.05.21 shall be extended upto 15.06.21 if completion of such action has not been made within such time.

(ii) Where the reply of notice to be made by the registered taxpayer in respect to notices issued by the officer for rejection of refund claim & the time limit for issuance of order falls during the 15.04.21 to 30.05.21, in such case the time limit for issuance of such order shall be extended to 15 days after the receipt to notice or 31.05.21, whichever is later.

This notification shall be applicable from 15th April, 2021

8) Notification No. 15/2021-Central Tax, Dated 18th May, 2021

As per this notification the following amendment made in the GST rules,

(i). Authority given to additional commissioner or joint commissioner or commissioner for extension of time limit for revocation of cancellation of registration only for the provision covered under section 30 (1) of the CGST Act (where proper officer cancel the GSTIN on his own motion).

(ii). Relief given in relation to time period i.e. exclusion of period of 2 years specified u/s 54(1) [any person may make refund application before expiry of 2 years] from the date of filing of refund application, till the issuance of deficiencies memo by the proper officer.

Further the taxpayer may withdraw the said application by filing an application in FORM GST RFD-01W at any time before issuance of refund sanction order or final refund sanction order or payment order or refund withhold order or notice in respect of any refund application. If any amount debited from the electronic cash ledger on submission of refund application shall be credited back to the ledger.

(iii) Part - A of FORM GST RFD-07 is omitted, and Part - B shall be placed as Part - A.

(iv) In rule 138E, for the words "in respect of a registered person, whether as supplier or a recipient, who, -" the words „in respect of any outward movement of goods of a registered person, who, -" shall be substituted

Circular

1) Circular No. 148/04/2021-GST, Dated 18th May, 2021

This circular is issued by the Central Government in respect of Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration.

The below amendment was already made in GST Act, through this circular the amendments are made in GST Rules & in the GST registration Forms, The amended provision provides for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown and for reasons to be recorded in writing, by:

(a) the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a) above

https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_148.pdf

-Compiled by Radhika Yadav

RBI**1. RBI/2021-22/27
FIDD.CO.Plan.BC.NO.10/04.09.01/2021-2022****Priority Sector Lending (PSL) - On-lending by Small Finance Banks (SFBs) to NBFC-MFIs**

As per extant guidelines, lending by Small Finance Banks (SFBs) to Micro-Finance Institutions (MFIs) for on-lending is not reckoned for priority sector lending (PSL) classification. In view of the fresh challenges brought on by the COVID-19 pandemic and to address the emergent liquidity position of smaller MFIs, it has been decided to allow PSL classification to the fresh credit extended by SFBs to registered NBFC-MFIs and other MFIs (Societies, Trusts etc.) which are members of RBI recognised 'Self-Regulatory Organisation' of the sector and which have a 'gross loan portfolio' of upto ₹500 crore as on 31 March 2021, for the purpose of on-lending to individuals. Bank credit as above will be permitted up to 10% of the bank's total priority sector portfolio as on 31 March, 2021.

The above dispensation shall be valid upto March 31, 2022. However, loans thus disbursed will continue to be classified under Priority Sector till the date of repayment/maturity whichever is earlier. Further, banks will be required to adhere to the conditions prescribed for on-lending under para 21 of our Master Directions on PSL dated September 4, 2020 (updated as on April 29, 2021).

**2. RBI/2021-22/28
DOR.STR.REC.10/21.04.048/2021-22****Floating Provisions/Countercyclical Provisioning Buffer**

In order to mitigate the adverse impact of COVID 19 related stress on banks, as a measure to enable capital conservation, it has been decided to allow banks to utilise 100 per cent of floating provisions/ countercyclical provisioning buffer held by them as on December 31, 2020 for making specific provisions for non-performing assets

with prior approval of their Boards. Such utilisation is permitted with immediate effect and upto March 31, 2022.

3. **RBI/2021-22/30**
DoR.RET.REC.09/12.01.001/2021-22

Credit to MSME Entrepreneurs

In terms of the above circular, Scheduled Commercial Banks were 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). This exemption was available up to ₹ 25 lakh per borrower for the credit disbursed up to the fortnight ending October 1, 2021.

It has been decided to extend this exemption for such credits disbursed up to the fortnight ending December 31, 2021. All other instructions contained in the circular *ibid* remain same.

4. **RBI/2021-22/31**
DOR.STR.REC.11/21.04.048/2021-22

Resolution Framework – 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses

The Reserve Bank of India vide its circular DOR.No.BP.BC/3/21.04.048/2020-21 dated August 6, 2020 on “Resolution Framework for COVID-19-related Stress” (“Resolution Framework – 1.0”) had provided a window to enable lenders to implement a resolution plan in respect of eligible corporate exposures without change in ownership, and personal loans, while classifying such exposures as Standard, subject to specified conditions.

Part A of this circular pertains to requirements specific to resolution of advances to individuals and small businesses and Part B pertains to working capital support for: (i) individuals who have availed of loans for business purposes, and (ii) small businesses, where resolution plans were implemented previously. Part C lists the disclosure requirements for the lending institutions with respect to the resolution plans implemented under this window.

Please refer <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12085&Mode=0>

For complete circular details.

5. **RBI/2021-22/32**
DOR.STR.REC.12/21.04.048/2021-22

Resolution Framework 2.0 - Resolution of Covid-19 related stress of Micro, Small and Medium Enterprises (MSMEs)

RBI had issued circular DOR.No.BP.BC/4/21.04.048/2020-21 dated August 6, 2020 on restructuring of advances to the MSME borrowers.

In view of the uncertainties created by the resurgence of the Covid-19 pandemic in India in the recent weeks, it has been decided to extend the above facility for restructuring existing loans without a downgrade in the asset classification subject to some conditions such as:

- (i) The borrower should be classified as a micro, small or medium enterprise as on March 31, 2021 in terms of the Gazette Notification S.O. 2119 (E) dated June 26, 2020.
- (ii) The borrowing entity is GST-registered on the date of implementation of the restructuring. However, this condition will not apply to MSMEs that are exempt from GST-registration. This shall be determined on the basis of exemption limit obtaining as on March 31, 2021.
- (iii) The aggregate exposure, including non-fund based facilities, of all lending institutions to the borrower does not exceed ₹25 crore as on March 31, 2021.
- (iv) The borrower's account was a 'standard asset' as on March 31, 2021.
- (v) The borrower's account was not restructured in terms of the circulars DOR.No.BP.BC/4/21.04.048/2020-21 dated August 6, 2020; DOR.No.BP.BC.34/21.04.048/2019-20 dated February 11, 2020; or DBR.No.BP.BC.18/21.04.048/2018-19 dated January 1, 2019 (collectively referred to as MSME restructuring circulars).

(vi) The restructuring of the borrower account is invoked by September 30, 2021. For this purpose, the restructuring shall be treated as invoked when the lending institution and the borrower agree to proceed with the efforts towards finalising a restructuring plan to be implemented in respect of such borrower. The decisions on applications received by the lending institutions from their customers for invoking restructuring under this facility shall be communicated in writing to the applicant by the lending institutions within 30 days of receipt of such applications. The decision to invoke the restructuring under this facility shall be taken by each lending institution having exposure to a borrower independent of invocation decisions taken by other lending institutions, if any, having exposure to the same borrower.

(vii) The restructuring of the borrower account is implemented within 90 days from the date of invocation.

(viii) If the borrower is not registered in the Udyam Registration portal, such registration shall be required to be completed before the date of implementation of the restructuring plan for the plan to be treated as implemented.

(ix) Upon implementation of the restructuring plan, the lending institutions shall keep provision of 10 percent of the residual debt of the borrower.

(x) It is reiterated that lending institutions shall put in place a Board approved policy on restructuring of MSME advances under these instructions at the earliest, and in any case not later than a month from the date of this circular.

(xi) All other instructions specified in the circular DOR.No.BP.BC/4/21.04.048/2020-21 dated August 6, 2020 shall remain applicable.

In respect of restructuring plans implemented as per Clause 2 above, asset classification of borrowers classified as standard may be retained as such, whereas the accounts which may have slipped into NPA category between April 1, 2021 and date of implementation may be upgraded as 'standard asset', as on the date of implementation of the restructuring plan.

In respect of accounts of borrowers which were restructured in terms of the MSME restructuring circulars, lending institutions are permitted, as a one-time measure, to review

the working capital sanctioned limits and / or drawing power based on a reassessment of the working capital cycle, reduction of margins, etc. without the same being treated as restructuring. The decision with regard to above shall be taken by lending institutions by September 30, 2021. The reassessed sanctioned limit / drawing power shall be subject to review by the lending institution at least on a half yearly basis and the renewal / reassessment at least on an annual basis. The annual renewal/reassessment shall be expected to suitably modulate the limits as per the then-prevailing business conditions.

6. **RBI/2021-22/44**
A.P. (DIR Series) Circular No. 05

Investment by Foreign Portfolio Investors (FPI) in Government Securities: Medium Term Framework (MTF)

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to Schedule 1 to the Foreign Exchange Management (Debt Instruments) Regulations, 2019, as amended from time to time and the relevant directions issued thereunder.

For investments details of FY 2021-2022 please refer:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12102&Mode=0>

7. **RBI/2021-22/44**
A.P. (DIR Series) Circular No. 05

Amalgamation of District Central Co-operative Banks (DCCBs) with the State Co-operative Bank (StCB) - Guidelines

The Banking Regulation (Amendment) Act, 2020 (39 of 2020) has been notified for the State Co-operative Banks (StCBs) and District Central Co-operative Banks (DCCBs) with effect from, April 1, 2021 vide Notification dated December 23, 2020 issued by Government of India. With the issue of the notification, the amalgamations of the above banks have to be sanctioned by Reserve Bank of India in terms of the provisions of the Section 44-A read with Section 56 of the Banking Regulation Act, 1949.

-Compiled by Vinayak Gupta

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1. CLARIFICATION ON OFFSETTING THE EXCESS CRS SPENT FOR FY 19-20

It is clarified that where a company has contributed any amount to 'PM CARES Fund' on 31.03.2020, which is over and above the minimum amount as prescribed under section 135(5) of the Companies Act, 2013 ("Act") for FY 2019-20, and such excess amount or part There of is offset against the requirement to spend under section 135(5) for FY 2020-21, then the same shall not be viewed as a violation subject to the conditions that:

i. The amount offset as such shall have factored the unspent CSR amount

for previous financial years, if any;

ii. The Chief Financial Officer shall certify that the contribution to "PM CARES Fund" was indeed made on 31st March 2020 and the same shall also be so certified by the statutory auditor of the company; and

iii. The details of such contribution shall be disclosed separately in the Annual Report on CSR as well as in the Board's Report for FY 2020-21 in terms of section 134 (3) (o) of the Act

2. CLARIFICATION ON SPENDING OF CSR FUNDS FOR "CREATING HEALTH INFRASTRUCTURE FOR COVID CARE", "ESTABLISHMENT OF MEDICAL OXYGEN GENERATION AND STORAGE PLANTS"

In continuation to this Ministry's General Circular No. 10/2020 dated 23.03.2020, wherein it was clarified that spending of CSR funds for COVID-19 is an eligible CSR activity, it is further clarified that spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants', 'manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19' or similar such activities are eligible CSR activities under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health

Care, and, disaster management respectively.

Item no. (ix) of Schedule VII of the Companies Act, 2013 which permits contribution to specified research and development projects as well as contribution to public funded universities and certain Organizations engaged in conducting research in science, technology, engineering, and medicine as eligible CSR activities.

The companies including Government companies may undertake the activities or projects or programmers using CSR funds, directly by themselves or in collaboration as shared responsibility with other companies

3. CLARIFICATION OF GAP BETWEEN TWO BOARD MEETING UNDER SEC 173 OF COMPANIES ACT 2013

The Board of Directors of Companies within the intervals provided under section 173 120 days stands Extended for period of 60 days for First two Quarter of Financial Year 2021-22. The Gap between Two Consecutive Meetings of the Board maybe extended to 180 days during the Quarter - April to June, 2021 and Quarter -July to September, 2021, Instead of 120 Days as required under Companies Act,2013.

4. CIRCULAR ON RELAXATION OF TIME OF FILING OF FORMS RELATED TO - CREATION OR MODIFICATION OF CHARGE UNDER COMPANIES ACT 2013

Filing of Forms CHG-1 and CHG-9 by a Company or a Charge holder where the date of creation or modification of charge is before 01.04.2021 or falls on any date between 01.04.2021 to 31.03.2021.

5. RELAXATION OF LEVY OF ADDITIONAL FEES IN FILING CERTAIN FORMS UNDER COMPANIES ACT 2013 AND LLP ACT 2008

Forms due to be filed under Companies Act 2013 and LLP Act 2008 between 1st April 2021 and 31st May 2021 can be filed upto 31st July 2021. Accordingly no additional fees shall be

CORPORATE LAW

levied upto 31st July 2021 for delayed filing of forms other than Charge forms (CHG-1 Form,CHG-4 Form and CHG -9 Form).

For such delayed filings upto 31st July 2021 only normal fees shall be payable.

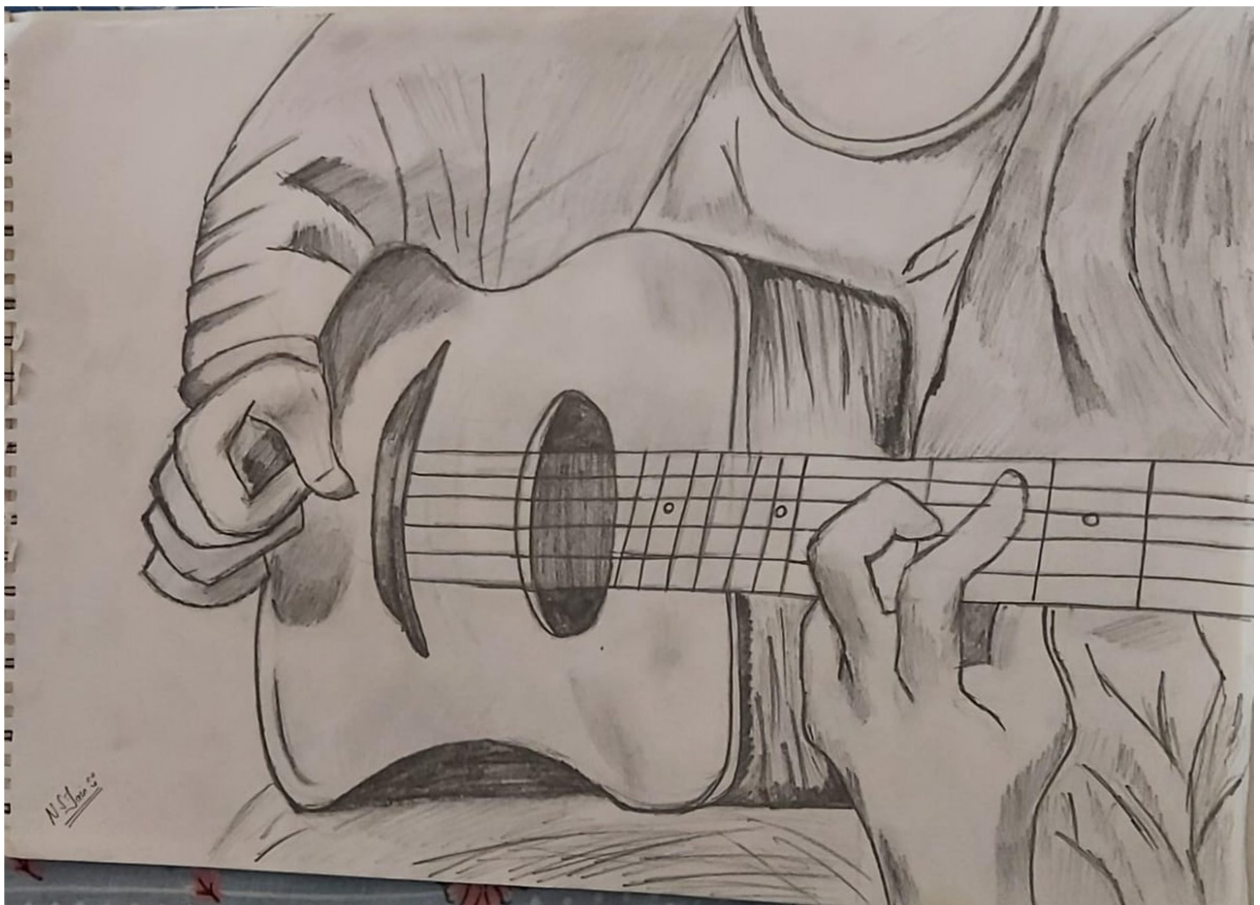
-Compiled by Devika Gangapuram

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-By CA Nilam Jain

“How is it that music can, without words, evoke our laughter, our fears, our highest aspirations?” — Jane Swan



Allow us to tell you more!



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