

R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

January 2024

“Reading is essential for those who seek to rise above the ordinary.”



INDEX

1. Direct Tax	03
2. Case Laws	12
3. GST	16
4. RBI	19
5. ROC	21
6. Hunar Art	23

EDITORIAL TEAM

CHIEF EDITOR

CA R. C. Jain

EDITOR

CA Dhiraj K. Rangani

MEMBERS

Simran Ratnani

Amrit Bodwani

Ayush Vora

Prachi Dubey

Samrudhi Gawde

Priya Suthar

SUPPORT TEAM

Ulhas Jain

CA Meera Joisher

Mangesh Kolekar

The contents provided in this newsletter are for information purpose only and are intended, but not promised or guaranteed, to be correct, complete and up-to-date. The firm hereby disclaims any and all liability to any person for any loss or damage caused by errors or omissions, whether such errors or omissions result from negligence, accident or any other cause.

Direct Tax

- **Notification no 1 dated 02/01/2024, Notification no 2 dated 02/01/2024,**
- **Notification no 3 dated 02/01/2024, Notification no 6 dated 05/01/2024,**
- **Notification no 7 dated 05/01/2024, Notification no 8 dated 05/01/2024,**
- **Notification no 9 dated 05/01/2024, Notification no 10 dated 08/01/2024,**
- **Notification no 11 dated 08/01/2024, Notification no 12 dated 19/01/2024**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961(43 of 1961), the Central Government hereby notifies for the purposes of the said clause,

1. 'Bellary Urban Development Authority' (PAN AAALB0037A),
2. 'Karnataka State Rural Livelihood Promotion Society' (PAN AACAK0581H) ,
3. 'Madhya Pradesh Professional Examination Board, Bhopal (PAN- AAAGP1792B),
6. 'District Legal Service Authority Union Territory Chandigarh' (PAN: AAAGD1545A),
7. 'Karmayogi Bharat (PAN:AAJCK2949L),
8. 'Haryana State Board of Technical Education, Panchkula' (PAN: AAAGT0008A),
9. 'Polavaram Project Authority, Hyderabad (PAN: AAAGP0436N),
10. 'Chennai Metropolitan
11. 'Water Supply and Sewerage Board' (PAN: AAALM0037B),
12. 'Punjab State Faculty of Ayurvedic and Unani Systems of Medicine' (PAN: AAALT1669E),

The authorities constituted by the Central & State Government of India, in respect of the following specified income arising to that Authorities, namely:

Revenue from own layout development;

- a) Collections on account of private layout betterment charges;
- b) Civil supervision charges;
- c) Lease from civic amenities sites;
- d) Interest earned on bank deposits;
- e) Grants received from the Central Government;
- f) Grants received from the State Government of Karnataka; and
- g) Interest earned on bank deposits;
- h) Fees of Examination & Sale of Application Form;
- i) Interest earned on bank deposits;
- j) Grants received from the Punjab and Haryana High Court, Central Authority i.e. National Legal Services Authority and State Authority constituted under Legal Services Authorities Act, 1987;
- k) Grants or donation received from the Central Government or the State Government of Punjab/Haryana for the purpose of the Legal Services Authorities Act, 1987;
- l) Amount received under the order of the court;
- m) Fees received as recruitment application fee;
- n) Grants/subsidies received from the Government/ Government bodies;
- o) Subscription Charges/Fees, Assessment fees, On boarding fees;
- p) Receipts from sale of forms, materials, disposal of scrap and tender fee;
- q) Interest earned from Banks and Government Securities and Bonds;
- r) Grants, Assignments and Contributions received from the Central Government and the State

Government of Haryana;

- s) Fees, such as Affiliation Fees, Examination Fees, Migration Fees, Transcription Fees, etc.;
- t) Royalties and charges including penalties;
- u) Bequests, donations and endowments or other contributions;
- v) Sale proceeds of any securities and Rents and profits from property vested in Haryana State Board of Technical Education;
- w) Grants received from the Central Government;
- x) Centage receipts received from Municipalities, Local authority and Government;
- y) Receipts of taxes, charges, fees, fines, forfeitures, penalties, etc. by whatever name called;
- z) Income from sale of farm produce, rent from properties;
- aa) Other miscellaneous income such as interest on deposits with TNEB, GPF/CPS investments, staff welfare investments, Debt Reserve Fund, Fixed Asset renewal fund, advance to staff and contractors, sale of assets/scrap;
- bb) Fees, by whatever name called;
- cc) Maintenance Fund receipts.

This notification shall be effective subject to the conditions that our mentioned authorities

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024 relevant for the financial years 2018-2019, 2019-2020, 2020-2021, 2021-2022 and 2022-2023 respectively.

- **Notification 4, dated 04/01/2024**

Section 10(4G) provides an exemption to any income received by a non-resident from a portfolio of securities, financial products, or funds managed or administered by any portfolio manager on behalf of such non-resident.

IT Circulars:

Promoting timely payments to Micro and Small Enterprises

In order to promote timely payments to micro and small enterprises (MSME), payments made to such enterprises have been included within the scope of section 43B of the Act vide FA 2023. A new clause (h) has been inserted in section 43B of the Act to provide that any sum payable by the assessee to a MSME beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment.

Section 15 of the MSMED Act mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the

section mandates that the payment shall be made within 15 days. Thus, this amendment to section 43B of the Act allows the payment as deduction only on payment basis. It can be allowed on accrual basis only if the payment is within the time mandated under section 15 of the MSMED Act.

Limiting the roll over benefit claimed under section 54 and section 54F

In line with the Government's policy of limiting deductions, FA 2023 has imposed a limit on the maximum deduction that can be claimed by the assessee under section 54 and 54F of the Act. It has been provided that if the cost of the new asset purchased is more than rupees ten crore, the amount exceeding rupees ten crore shall not be taken into account for computing deduction under the said sections.

Defining the cost of acquisition in case of certain assets for computing capital gains

Therefore, to define the term 'cost of acquisition' and 'cost of improvement' of such assets, FA 2023 has amended the provisions of sub-clause (1) of the clause (b) of the sub-section (1) to provide that the cost of improvement of an intangible asset or any other right shall be taken to be nil. Also clause (a) of sub-section (2) of section 55 has been amended to provide that the 'cost of acquisition' of a capital asset being any intangible asset or any other right shall be 'Nil' where it falls in sub-clause (iii) of clause (a) of sub-section (2) of section 55 of the Act..

Relief to start-ups in carrying forward and setting off of losses

In FA 2023 under section section 80-IAC of the Act, the additional condition that the loss is allowed to be set off, under this relaxation, only if it has been incurred during the period of seven years beginning from the year in which such company is incorporated., the period of relaxation under section 79 of the Act has been increased from seven years to ten years from the date of incorporation.

Removal of certain funds from section 80G of the Act

It has been observed that there are only three funds based on names of the persons in the said section. In order to remove such funds, FA 2023 has omitted under section 80G of the Act Following are the names :

Jawaharlal Nehru Memorial Fund
Indira Gandhi Memorial Trust
Rajiv Gandhi Foundation

Extension of date of incorporation for eligible start-up for exemption

FA 2023 has to further promote the development of start-ups in India and to provide them with a competitive platform, FA 2023 has amended the provisions of section 80-IAC of the Act and extended the period of incorporation of eligible start-ups to 1st April 2023.

Reducing the time provided for furnishing Transfer Pricing (TP) report

FA 2023 has amended sub-section (3) of section 92D of the Act to provide that,-
(i) the Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under the Act, require any person referred to in section 92D of the Act i.e., who has entered into an international transaction or specified domestic transaction, to furnish any information or document referred therein,

within a period of ten days from the date of receipt of a notice issued in this regard; and
(ii) the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person who has entered into an international transaction or specified domestic transaction, extend the period of ten days by a further period not exceeding thirty days

Parity in respect of taxation of Royalty/FTS

In view of the above FA 2023 has amended section 115A of the Act in order to provide for increase in the rate of taxation of royalty and fees for technical services from 10% to 20%.

15% concessional tax to promote new manufacturing co-operative society

The Taxation Laws (Amendment) Act, 2019, inter-alia, inserted section 115BAB in the Act which provides that new manufacturing domestic companies set up on or after 01.10.2019, which commence manufacturing or production by 31.03.2023 and do not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15 per cent. The time for commencing manufacturing or production has been extended to 31.03.2024 by the Finance Act, 2022.

Clarification regarding advance tax while filing Updated Return

The provisions of section 140B of the Act, an amendment has been made in the said sub-section that interest payable under section 234B of the Act shall be computed on an amount equal to the assessed tax as reduced by the amount of advance tax, the credit for which has been claimed in the earlier return, if any.

Applicability: This amendment has taken effect retrospectively from 1st April, 2022.

Facilitating TDS credit for income already disclosed in the return of income of past year

FA 2023, a new sub-section (20) has been inserted in section 155 of the Act. This new sub-section applies where any income has been included in the return of income furnished by an assessee under section 139 of the Act for any assessment year (hereinafter referred to as the “relevant assessment year”) and tax has been deducted at source on such income and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year. In such a case the assessee can make application in the prescribed form to the Assessing Officer within two years from the end of the financial year in which such tax was deducted at source. Then Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year. It has been further provided that the provisions of section 154 of the Act shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which such tax has been deducted. Further, credit of such tax deducted at source shall not be allowed in any other assessment year

TDS on payment of accumulated balance due to an employee

It was observed that many low-paid employees do not have PAN and thereby TDS is being deducted at the maximum marginal rate in their cases under section 192A. Hence, vide FA 2023 the second proviso to section 192A of the Act has been omitted, so that in case of failure to furnishing of PAN by the person relating to payment of accumulated balance due to him, tax will be deducted at the rate of 20% as in other non-PAN cases in accordance with section 206AA of the Act, instead of at the maximum marginal rate.

Removal of exemption from TDS on payment of interest on listed debentures to a resident

FA 2023, clause (ix) of the proviso to section 193 of the Act was substituted to remove exemption for interest on listed debentures and provide exemption from TDS in respect of any interest payable to a "business trust", in respect of any securities paid by a special purpose vehicle referred to in the Explanation to clause (23FC) of section 10 of the Act.

TDS and taxability on net winnings from online games

Accordingly, the FA 2023:—

(i) amended section 194B and 194BB of the Act to provide that deduction of tax under these sections shall be on the amount or aggregate of the amounts exceeding ten thousand rupees during the financial year;

(ii) amended section 115BB of the Act to exclude income from winnings from online games from the purview of the said section from the assessment year 2024-25, since section 115BBJ was introduced to tax winnings from online games from that assessment year;

(iii) inserted a new section 115BBJ in the Act with regard to tax on winnings from online games to provide that where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of—

- the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of thirty per cent; and
- the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above;

Concessional rate of taxation of interest under section 194LC of the Act

FA 2023 has amended section 194LC of the Act to provide that the withholding tax in respect of interest income paid to a non-resident on money borrowed by, a specified company or a business trust from a source outside India by way of issuance of any long-term bond or rupee denominated bond on or after the 1st day of July, 2023, which is listed only on a recognised stock exchange located in an International Financial Services Centre shall be at the concessional rate of 9%

Increasing threshold limit for co-operatives to withdraw cash without TDS

In FA 2023, section 194N of the Act has been amended to provide that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words "one crore rupees", the words "three crore rupees" had been substituted

Extending the scope for deduction of tax at source to lower or nil rate

To remove this difficulty, vide FA 2023 sub-section (1) of section 197 of the Act has been amended to provide that the sums on which tax is required to be deducted under section 194LBA of the Act shall also be eligible for certificate for deduction at lower rate.

Tax treaty relief at the time of TDS under section 196A of the Act

Section 196A of the Act provides for TDS on payment of certain income to a non-resident (not being a company) or to a foreign company, at the rate of 20%. The income is required to be in respect of units of

a Mutual Fund specified under clause (23D) of section 10 of the Act

a proviso to sub-section (1) of section 196A of the Act has been inserted to provide that the TDS would be at the rate which is lower of the rate of 20% and the rate or rates provided in agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A of the Act, in case of a payee to whom such agreement applies and such payee has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act.

Increasing rate of TCS of certain remittances

Nature of payment (1)	Earlier rate before FA 2023 (2)	New rate w.e.f 1st October 2023 (3)
Purchase of Overseas tour program package	5% (without threshold)	5% till Rs 7 Lakh 20% thereafter

Relief from special provision for higher rate TCS for failure to furnish PAN by the collectee

FA 2023, section 206CC was amended to provide that the rate of TCS under the said section shall not exceed twenty per cent

Set off and withholding of refunds in certain cases

Section 241A of the Act deals with withholding of refund in certain cases. As per the section, where a refund becomes due to an assessee under sub-section (1) of section 143 and notice for assessment is issued to him under sub-section (2) of section 143, the Assessing Officer (AO) may withhold such refund till the date of the assessment, if he is of the opinion that the grant of refund is likely to adversely affect the revenue. Such withholding can be done after recording the reasons for doing so and with the prior approval of the Principal Commissioner or Commissioner, and is applicable to assessment years on or after 2017-18.

Section 241A of the Act has also been amended to make the provisions of that section inapplicable from 1st April, 2023. 61.6. Further, as the amendments made under section 245 of the Act would have an impact on cases referred to in sub-section (1A) of section 244A, i.e., where refund due to the assessee is required to be withheld by the AO under sub-section (2) of section 245 till the date of the making assessment or reassessment, sub-section (1A) of section 244A has also been amended by inserting a proviso that in case of an assessee where proceedings for assessment or reassessment are pending additional interest shall not be payable to the assessee under this sub-section, for the period beginning from the date on which such refund is withheld by the Assessing Officer, in accordance with and subject to provisions of sub-section (2) of section 245, till the date on which the assessment or reassessment pending in such case, is made. 61.7. However, the amendment made shall not impact the existing position with regard to all other types of interest, except additional interest under sub-section (1A) of section 244A, payable to the assessee as required under the Act.

Extension of time for disposing rectification applications by Interim Board for Settlement

Clause (iv) of sub-section (9) of section 245D has been amended by the FA 2023 and substituted with a new clause to provide that where the time limit for amending an order or for filing of rectification application under sub-section (6B) expires on or after 01.02.2021 but before 01.02.2022, such time-limit shall stand extended to 30.09.2023.

Penalty for cash loan/ transactions against primary co-operatives

The provisions of section 269T of the Act have also been amended and the limit of Rs. 20,000 has been increased to Rs. 2 lakh in the case of PACS and PCARDS. As a result, in a case where a deposit is paid by a PACS or a PCARD to its member or a loan is repaid to a PACS or a PCARD by its member, payment shall be made by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such deposit or repayment is more than Rs. 2 lakh. As a result penalty shall be imposable if the amount of such repayment of loan or deposit is Rs. 2 lakh or more

Amendments in consequence to new provisions of TDS

Prior to FA 2023, the provisions for penalty and prosecution did not clearly mandate a penalty or prosecution for a person who does not pay or fails to ensure that tax has been paid in a situation where the benefit or perquisite is passed in kind. Therefore, to enable such penalty and prosecution, section 271C has been amended vide FA 2023 by inserting two new sub-clauses viz. sub-clause (iii) & sub-clause (iv) under clause (b) in sub-section (1) providing references to the first proviso to section sub-section (1) of 194R and proviso to sub-section (1) to section 194S. Further, vide FA 2023, similar amendments have also been made in section 276B of the Act.

Penalty for furnishing inaccurate statement of financial transaction or reportable account

New sub-section (2) has been inserted in 271FAA which provides that if there is any inaccuracy in the statement of financial transactions submitted by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder, a penalty of five thousand rupees shall be imposable on such institution

Revision of rates of Securities Transaction Tax by amendments in Finance (No. 2) Act, 2004

Highly volatile markets are more prone to crashes in which investors might lose a lot of money. At the same time, this could be a trigger for a potential recession in the markets. At the same time, volatile markets contribute to higher inflation as well. Accordingly, the rates of STT have been increased on such transactions to 133 discourage investment in these speculative instruments. Accordingly, the rate of securities transaction tax payable by seller have been amended as follows- (a) for sale of an option in securities, from 0.05 per cent to 0.0625 per cent; and (b) for sale of a future in securities, from 0.01 per cent to 0.0125 per cent.

Extension of Income- tax exemption to Specified Undertaking of Unit Trust of India (SUUTI) till 31.03.2025

FA 2023 amended the UTI Repeal Act, 2002, by way of amendment of,-
sub-section (1) of section 8, to provide that the Administrator, SUUTI shall immediately on redemption of all the schemes of the specified undertaking and the payment 135 of entire amount to investors or from such date as may be notified by the Central Government in the Official Gazette, whichever is earlier, vacate his office;

sub-section (1) of section 13, to provide that notwithstanding anything contained in the Act or any other enactment for the time being in force relating to tax or income, profits or gains, no income-tax or any other tax shall be payable by the Administrator in relation to the specified undertaking till the period ending on the 31st day of March, 2025 in respect of any income, profits or gains derived, or any amount received in relation to the specified undertaking.

Decriminalization of section 276A of the Act

In view of this, section 276A of the Act was amended by providing a sunset clause on the section with effect from 01.04.2023. Hence, no fresh prosecution shall be launched under this section on or after 1st April, 2023. The earlier prosecutions will however continue.

Facilitating strategic disinvestment of public sector companies

Vide FA 2023, section 72AA of the Act has also been amended to allow carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of one or more banking company with any other banking institution or a company subsequent to a strategic disinvestment, if such amalgamation takes place within 5 years of strategic disinvestment.

Alignment of provisions of section 45(5A) with the tax deducted at source provisions of section 194-IC

Provisions of sub-section (5A) of section 45 have been amended to provide that the full value of consideration shall be taken as the stamp duty value of his share as increased by any consideration received in cash or by a cheque or draft or by any other mode.

Special provision for taxation of capital gains in case of Market Linked Debentures and certain Specified Mutual Funds

FA 2023 has inserted a new section 50AA in the Act to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of “Market Linked Debentures” or a unit of a “Specified Mutual Fund” acquired on or after the 1st day of April 2023, as reduced by the cost of acquisition of the debenture or unit and the expenditure incurred wholly or exclusively in connection with transfer or redemption, as capital gains arising from the transfer of a short term capital asset.

Transfer of a capital asset, being interest in a joint venture in exchange of shares of a company, incorporated outside India by foreign government, in accordance with the laws of a foreign state

Further, FA 2023 has defined the ‘Market linked Debenture’ as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India. The term “Specified Mutual Fund” has also been defined to mean a Mutual Fund by whatever name called, where not more than thirty five per cent of its total proceeds is invested in the equity shares of domestic companies. It is further provided that the percentage of equity shareholding held in respect of the fund shall be computed with reference to the annual average of the daily closing figures. Finance Act 2023 has inserted a new clause to provide that any transfer of a capital asset, therein, being interest in a joint venture as notified by the Board, held by a public sector company, in exchange of shares of a company, incorporated outside India by a foreign government, in accordance with the laws of that foreign state shall not be considered as a transfer. Further, Finance Act 2023 has inserted, to provide that where the capital asset, being shares, became the property of the assessee, the cost of acquisition of such asset shall be deemed to be the cost of acquisition to it of the interest in the joint venture referred to in the said clause.

~ Compiled By Simran Ratnani.

CASE LAW

A. INCOME TAX : Where Assessing Officer made addition to assessee's income under section 68 in respect of unsecured loan received by assessee on ground that creditor company had declared nil income and appellate authority accepted all conclusions of Assessing Officer, since there was nothing to indicate that appellate authority while recording conclusion, independently applied its mind, matter was to be remanded for reconsideration by appellate authority

[2024] 158 taxmann.com 326 (Madras)

HIGH COURT OF MADRAS

Sohan Raj Khanted Guvanthraj

v.

Commissioner of Income-tax (Appeals)

SENTHILKUMAR RAMAMOORTHY, J.

WRIT PETITION NO.36018 OF 2023

W.M.P.NOS.35994 & 35995 OF 2023

JANUARY 4, 2024

GIST OF THE CASE:

Section 68 of the Income-tax Act, 1961 - Cash credit - (Bogus loan) - Assessment year 2020-21 - Assessing Officer included a sum of Rs. 23 crores as income of assessee under section 68 - Assessee contended that said sum represented a genuine unsecured loan from an entity called ME - Assessing Officer did not accept this contention because ME had filed a return declaring nil income in relevant assessment year - Appellate authority accepted all conclusions of Assessing Officer and rejected appeal - Whether since there was nothing to indicate that appellate authority independently applied his mind while drawing conclusions, impugned order was to be set aside and matter was to be remanded back to appellate authority for disposal afresh - Held, yes [Para 5] [In favour of assessee]

FACTS RELATING TO THE CASE:

The petitioner/assessee had filed his income tax returns for the assessment year 2020-21 declaring a total income of Rs.53 crores. The assessment order in relation to such return was issued on 2022. In the said order, the Assessing Officer had included a sum of Rs.23 crores as income under section 68 and proposed to tax the same under section 115BBE.

According to the assessee, the sum of Rs. 23 crores represented a genuine unsecured loan from an entity called ME. The Assessing Officer did not accept this contention because ME had filed a return indicating nil income in the relevant assessment year.

On appeal, the appellate authority accepted all the conclusions of the Assessing Officer and rejected the appeal.

HELD:

On examining the impugned order, it is found that the appellate authority has set out the grounds raised by the appellant, the written submissions of the appellant and the inferences and conclusions drawn by the Assessing Officer. After setting out the above, the findings and decisions are recorded in a brief paragraph wherein it is mentioned that the Assessing Officer has analyzed the entire gamut of the transactions being undertaken by the appellant, and also traced the trail of money from one company to the other. The Assessing Officer has summed up the detailed inquiries in the assessment order and rightly concluded that the assessee has not been able to establish the genuineness of the transaction and the credit-worthiness of the company ME. The appellant has not submitted any evidence in the appellate proceedings to this effect. Accordingly, the addition of Rs.23 crores made by the Assessing Officer under section 68 is hereby confirmed. From the above, it follows that the appellate authority has drawn the conclusion that the inferences and findings of the Assessing Officer are acceptable. However, there is nothing to indicate that the appellate authority independently applied his mind. The conclusions are in the nature of ipse dixit and no supporting reasons are discernible. On this sole ground, albeit without expressing any opinion on the merits of the matter, the appellate order cannot be interfered with.[Para 5]

Consequently, petition is allowed by quashing the impugned order. As a corollary, the matter is remanded for reconsideration by the appellate authority. After providing a reasonable opportunity to the petitioner, the appellate authority is directed to dispose of the appeal by a reasoned order within a maximum period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to extend full co-operation to ensure that the appeal is disposed of within the time limit specified above.[Para 16]

B. INCOME TAX : Where assessee, engaged in business of trading wood, deposited cash in bank account during demonetization period out of sales made to various parties in cash, since such sales were duly recorded in books of account which were audited under various laws applicable and supported by credible evidence like copies of invoices, stock register maintained on a day to day basis, VAT returns filed from time to time and order of VAT authorities accepting sales made by assessee during year under consideration, impugned addition made under section 69A was to be deleted

[2024] 158 taxmann.com 208 (Delhi - Trib.)

IN THE ITAT, DELHI BENCH 'B'

Income Tax Officer, Ward-2

v.

J.K. Wood India (P.) Ltd.

**YOGESH KUMAR U.S., JUDICIAL MEMBER
AND N.K. BILLAIYA, ACCOUNTANT MEMBER**

**I T APPEAL NO. 1550 (DELHI) OF 2020
[ASSESSMENT YEAR 2017-18]**

JANUARY 3, 2024

GIST OF THE CASE:

Section 69A of the Income-tax Act, 1961 - Unexplained moneys - (Cash deposits) - Assessment year 2017-18 - Assessee was engaged in business of sawing and wholesale trading of timber - During course of scrutiny assessment, Assessing Officer noticed that assessee had made cash deposits of certain amount in its bank account during demonetization period and asked assessee to explain source of such cash deposits - Assessee submitted that it had sold timber to various parties in cash and cash deposits were out of sale proceeds - It was further submitted that it had paid VAT on sales made and reported same in its books of account - In support of its claim, assessee filed copy of bills, sale/VAT return, stock register and VAT assessment order - Assessing Officer, however, rejected explanation of assessee and made addition of such cash deposits to income of assessee under section 69A - It was noted that cash deposits made by assessee were duly recorded in books of account which were audited under various laws applicable and were supported by credible evidence like copies of invoices, stock register maintained on a day to day basis, VAT returns filed from time to time and order of VAT authorities accepting sales made by assessee during year under consideration - Whether, on facts, impugned addition made by Assessing Officer was to be deleted - Held, yes [Para 10] [In favour of assessee

FACTS RELATING TO THE CASE:

The assessee was engaged in the business of sawing and wholesale trading of timber. During the course of scrutiny assessment proceedings, the assessee was asked to explain the source of cash deposits of Rs.69 lakhs in its bank account during relevant year.

In its reply, the assessee explained that it was engaged in the business of trading wood and during months of October-November 2016, the assessee had sold wood to various parties and sales were made in cash, which had been deposited during demonetization period. It was explained that the assessee had paid VAT on the sales made and reported the same in its books of account. In support, the assessee submitted a copy of bills, sale/VAT return, stock register and VAT assessment order. The Assessing Officer dismissed the claim of sales and went on to make addition of Rs.69 lakhs under section 69A treating deposits as income from undisclosed sources and computed the tax as per provisions of section 115BBE.

On appeal, the Commissioner (Appeals) observed that the amount of Rs. 69 lakhs was duly recorded in the books of account which were audited under various laws applicable and supported by credible evidence like copies of invoices, stock register maintained on a day to day basis, VAT returns filed from time to time and order of VAT authorities accepting the sales made by the assessee during the period under consideration. He accordingly deleted the impugned addition.

HELD:

The undisputed fact is that there is not even a whisper of any defect, error or infirmity in the books of account maintained by the assessee which were audited both under the Companies Act and under the Income tax Act. The books of account have been maintained in the regular course of business and cash deposits in the books of account are duly reflected in the books of account. [Para 14]

Sales made by the assessee and shown in the regular books of account have been accepted as such by VAT authorities while framing the VAT assessment. The assessee was having sufficient stock in hand for making the impugned sales during the demonetization period and it is not the case of the Assessing Officer that the assessee has shown bogus purchases to show bogus sales to cover up cash deposited during the demonetization period. [Para 15]

~ **Compiled by Amrit Bodwani**

➤ **Notification No : 01/2024- Central tax, Dated : 05Th Jan 2024**

- **Topic:- Extension of due date for filing of return in FORM GSTR-3B for the month of November, 2023 for the persons registered in certain districts of Tamil Nadu.**

The due date for furnishing the return in FORM GSTR-3B for the month of November, 2023 **till the tenth day of January, 2024**, for the registered persons whose principal place of business is in the districts of Tirunelveli, Tenkasi, Kanyakumari, Thoothukudi and Virudhunagar in the state of Tamil Nadu.

This notification shall come into force from 20th December, 2023. The due date was earlier extend to 27th December, 2023 and now it is **further extended to 10th January,2024**.

➤ **Notification No : 02/2024- Central tax, Dated : 05Th Jan 2024**

- **Topic:- Extension of due date for filing FORM GSTR-9 and FORM GSTR-9C for the Financial Year 2022-23 for the persons registered in certain districts of Tamil Nadu.**

The due date for filing GSTR 9 and GSTR 9C for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tirunelveli, Tenkasi, Kanyakumari, Thoothukudi and Virudhunagar in the state of Tamil Nadu **has been extended to 10th January , 2024**.

➤ **Notification No : 03/2024- Central tax, Dated : 05Th Jan 2024**

- **Topic:- Seeks to rescind Notification No. 30/2023-CT dated 31 st July, 2023**

This notification was for the Specific manufacturer, who were involved in the manufacturing of scheduled item in the notification. This manufacturer need to submit some specified details in the forms mentioned in the said notification. Now this notification has been rescinded and new notification on same lines has been issued i.e. Notification 04/2024- Central tax, Dated: 05th Jan, 2024 which has been explained below.

➤ **Notification No : 04/2024- Central tax, Dated : 05Th Jan 2024**

- **Topic :- Seeks to notify special procedure to be followed by a registered person engaged in manufacturing of certain goods.**

The CBIC hereby notifies the following special procedure to be followed by a registered person engaged in manufacturing of the goods, the description of which is specified in the Schedule appended to this notification.

This notification shall come into effect from 1st day of April, 2024.

Manufacturer of Following goods are covered in the said notification:-

1. Pan-masala
2. Unmanufactured tobacco (without lime tube)– bearing a brand name
3. Unmanufactured tobacco (with lime tube)–bearing a brand name

4. Tobacco refuse, bearing a brand name
5. 'Hookah' or 'gudaku' tobacco bearing a brand name
6. Tobacco used for smoking 'hookah' or known as 'hookah' tobacco or 'gudaku' not bearing a brand name
7. Other water pipe smoking tobacco not bearing a brand name
8. Smoking mixtures for pipes and cigarettes
9. Other smoking tobacco bearing a brand name
10. Other smoking tobacco not bearing a brand name
11. Homogenised" or "reconstituted" tobacco, bearing a brand name
12. Chewing tobacco (without lime tube)
13. Chewing tobacco (with lime tube)
14. Filter khaini
15. Preparations containing chewing tobacco
16. Jarda scented tobacco
17. Snuff
18. Preparations containing snuff
19. Tobacco extracts and essence bearing a brand name
20. Tobacco extracts and essence not bearing a brand Name
21. Cut tobacco
22. Pan masala containing tobacco 'Gutkha
23. All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name
24. All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name

1. Details of Packing Machines: –

(1) All the registered persons engaged in manufacturing of the goods mentioned in Schedule to this notification shall furnish the details of packing machines being used for filling and packing of packages in FORM GST SRM-I, electronically on the common portal, within thirty days of coming into effect of this notification i.e **till 04th February, 2024.**

(2) Any person intending to manufacture goods as mentioned above , and who has been granted registration after the issuance of this notification, shall furnish the details of packing machines being used for filling and packing of packages in FORM GST SRM-I on the common portal, **within fifteen days of grant of such registration.**

(3) The details of any additional filling and packing machine being installed at the registered place of business shall be furnished, electronically on the common portal, by the said registered person **within twenty four hours of such installation in PART (B) of Table 6 of FORM GST SRM-I.**

(4) If any change is to be made in the declared capacity of the machines, the same shall be furnished, electronically on the common portal, by the said registered person **within twenty four hours** of such change in Table 6A of FORM GST SRM-I.

(5) Upon furnishing of such details in FORM GST SRM-I, a unique registration number shall be generated for each machine, the details of which have been furnished by the registered person, on the common portal.

(6) In case, the said registered person has submitted or declared the production capacity of his manufacturing unit or his machines, to any other government department or any other agency or organisation, the same shall be furnished by the said registered person in Table 7 of FORM GST SRM-I on the common portal, **within fifteen days of filing such declaration or submission:** Provided that where the said registered person has submitted or declared the production capacity of his manufacturing unit or his machines, to any other government department or any other agency or organisation, before the issuance of this notification, the latest such certificate in respect of the manufacturing unit or the machines, as the case may be, shall be furnished by the said registered person in Table 7 of FORM GST SRM-I on the common portal, **within thirty days of issuance of this notification i.e. till 04th February, 2024**

(7) The details of any existing filling and packing machine disposed of from the registered place of business shall be furnished, electronically on the common portal, by the said registered person **within twenty four hours** of such disposal in Table 8 of FORM GST SRM-I.

2. Special Monthly Statement: – The registered person shall submit a special statement for each month in FORM GST SRM-II, electronically on the common portal, **on or before the tenth day of the month succeeding such month.**

3. Certificate of Chartered Engineer:– The taxpayer shall upload a certificate of Chartered Engineer FORM GST SRM-III in respect of machines declared by him, as per para 1 of this notification, in Table 6 of FORM GST SRM-I.

Format for all the above mentioned forms is given in the said notification. Please refer the format from above mentioned notification.

~ Complied by Ayush Vora

1. RBI/2023-24/115
DoR.REG/LIC.No.72/16.05.000/2023-24
January 17, 2024

Second Schedule to the Reserve Bank of India Act, 1934 – Norms for inclusion

Revised Regulatory Framework for Urban Co-operative Banks (UCBs)

- The Revised Regulatory Framework for UCBs was released on July 19, 2022.
- The categorization norms for UCBs for regulatory purposes were revised.
- The criteria for classifying a UCB as Financially Sound and Well Managed (FSWM) were revised.
- Eligibility norms for inclusion of UCBs in the Second Schedule to the Reserve Bank of India Act, 1934 have been revised to conform with the Revised Regulatory Framework.
- Eligible UCBs satisfying the criteria for inclusion in the Second Schedule include a CAR of at least 3% more than the minimum requirement and no major regulatory and supervisory concerns.
- Eligible UCBs can apply for inclusion in the Second Schedule to the concerned Regional Office of Department of Supervision of the Reserve Bank.
- The revised instructions will come into force from the date of issue of the circular.

2. RBI/2023-24/113
Ref. No. DOS.ARG/SEC.8/08.91.001/2023-24
January 15, 2024

Guidelines on Appointment / Re-appointment of Statutory Auditors of State Co-operative Banks and Central Co-operative Banks

Banking Regulation (Amendment) Act, 2020: Impact on Rural Co-operative Banks

- Act comes into effect from April 01, 2021, for State Co-operative Banks (StCBs) and Central Co-operative Banks (CCBs).
- RBI has framed guidelines for seeking RBI approval for appointment, re-appointment, or removal of Statutory Auditor (SA).
- Guidelines will be effective from April 1, 2024, and all State Co-Operative Bank and Central Co-operative banks must submit applications before July 31 of the reference accounting year

3. RBI/2023-24/112
DOR.CRE.REC.70/21.01.003/2023-24
January 15, 2024

Credit/Investment Concentration Norms – Credit Risk Transfer

Non-Banking Financial Companies (NBFCs) Regulations and Regulations

- The Reserve Bank of India (MD on NBFC) and the Reserve Bank of India (MD on HFC) have issued guidelines for NBFCs.
- The Large Exposures Framework (LEF) is applicable to NBFC-Upper Layer (NBFC-UL) under paragraph 110 of the MD on NBFC.
- NBFC-Base Layer (NBFC-BL) and NBFC-Middle Layer (NBFC-ML) are governed by credit/investment concentration norms.
- A review of the extant concentration norms has been carried out to ensure uniformity and consistency in computation of concentration norms among NBFCs.
- NBFC-ML's exposures are calculated based on capital computation methods in MD on NBFC and MD on HFC.
- Credit default swaps (CDS) are allowed as credit risk transfer instruments for offsetting exposure to the underlying counterparty.
- Exemptions from credit/investment concentration norms include exposures to the Government of India and State Governments, and exposure where the principal and interest are fully guaranteed by the Government of India.
- Exposures exceeding the prudential exposure limits during the year are required to be disclosed in the Notes to Accounts in the annual financial statements.

4. RBI/2023-24/108

A. P. (DIR Series) Circular No. 13

January 5, 2024

Risk Management and Inter-Bank Dealings – Hedging of foreign exchange risk

Review of Regulatory Framework for Hedging Foreign Exchange Risks

- The Bi-monthly Monetary Policy Statement for 2023-24 issued a statement on the review of the regulatory framework for hedging foreign exchange risks.
- The Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 and Master Direction – Risk Management and Inter-Bank Dealings were reviewed and updated.
- The Foreign Exchange Management (Foreign Exchange Derivative Contracts) (First Amendment) Regulations, 2020 and A. P. (DIR Series) circular no. 29 were issued after a comprehensive review and public consultation.
- The revised framework has consolidated Directions for all types of foreign exchange transactions.
- The revised Directions are provided at Annex-I to this circular and will come into effect from April 05, 2024.
- Authorised Persons include Authorised Dealer Category - I banks, Recognised Stock Exchanges, and Recognised Clearing Corporations.
- The Directions have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 and Section 45W of the Reserve Bank of India, 1934.

~ Complied by Prachi Dubey

Listing of equity shares on International Stock Exchanges

Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024

RULE 3:

Application:-

The provisions of these rules shall apply to —

- (a) unlisted public companies;
- (b) listed public companies, so far as they are in accordance with regulations framed or directions issued in this regard by the Securities and Exchange Board or the Authority,

which issue their securities for the purposes of listing on permitted stock exchanges in permissible jurisdictions.

Permitted stock exchanges for this purpose includes :

- (a) India International Exchange.
- (b) NSE International Exchange.

Permissible jurisdictions for this purpose means International Financial Services Centre in India i.e. **GIFT IFSC.**

RULE 4:

Listing on permitted stock exchanges in permissible jurisdictions:-

- (1) An unlisted public company, which does not fall under rule 5 and which has no partly paid-up shares, may issue equity shares for the purposes of listing on a stock exchange in a permissible jurisdiction.
- (2) The unlisted public company or its existing shareholders referred to in sub-rule (1) shall also comply with the requirements of the Scheme.
- (3) Listing of equity shares on permitted stock exchanges in permissible jurisdiction by an unlisted public company which also intends to get its equity shares listed with any recognised stock exchange as defined under clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) shall also be in compliance with such conditions as may be specified by the Securities and Exchange Board of India.
- (4) The unlisted public company shall file the prospectus in e-Form LEAP-1 specified in the Second Schedule along with the fees within a period of seven days after the same has been

finalised and filed in the permitted exchange.

- (5) After the listing of the equity shares of a company on any of the stock exchanges in a permissible jurisdiction, the company shall comply with Indian Accounting Standards as specified in the Annexure to the Companies (Indian Accounting Standards) Rules, 2015 in preparation of their financial statements, in addition to any other accounting standard, which they may be required to comply for the preparation of the financial statements filed before the securities regulator concerned, or with the stock exchange concerned, as the case may be.

RULE 5

Following companies shall not be eligible for listing under these rules:

A company shall not be eligible for issuing its equity shares for listing in accordance with these rules, in case it —

- a) has been registered under section 8 or declared as Nidhi under section 406 of the Act
- b) is a company limited by guarantee and also having share capital;
- c) has any outstanding deposits accepted from the public as per Chapter V of the Act and rules made thereunder;
- d) has a negative net worth;
- e) has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holder or any other secured creditor:

Provided that this clause shall not apply if the company had made good the default and a period of two years had lapsed since the date of making good the default;

- f) has made any application for winding-up under the Act or for resolution or winding-up under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and in case any proceedings against the company for winding-up under the Act or for resolution or winding-up under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) is pending;

has defaulted in filing of an annual return (Form MGT-7) under section 92 or financial statement (Form AOC-4/XBRL/CFS) under section 137 of the Act within the specified period

~ Complied by Samrudhi Gawde

m



~ By Priya Suthar

Allow us to tell you more!



R.C. JAIN & ASSOCIATES LLP
Chartered Accountants
Website: www.rcjainca.com

Head Office:

Mumbai -

622-624, The Corporate Centre,
Nirmal Lifestyles, L.B.S. Marg,
Mulund (W),
Mumbai – 400080.
Email: info@rcjainca.com
Phone: **25628290/91, 67700107**

Branch Offices:

Bhopal -

M-272, Near Arya Samaj Bhawan,
Gautam Nagar, Bhopal,
Madhya Pradesh- 462 023
Email: hmjainca@rediffmail.com
Phone: **0755-2600646**

Aurangabad -

Su-Shobha, Plot No.7,
Mitranagar, Behind Akashwani,
Near Maratha Darbar Hotel,
Aurangabad - 431001.
Email: sskasliwal@gmail.com
Phone: **0240-2357556**

