

NEWSLETTER

August 2020

J P Chawla & Co. LLP

Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Business Intelligence



1. Ceo's Message	3
2. The Month That Was	4
3. Goods And Service Tax	5
4. Direct Tax	6
5. Assurance & Accounting	8
6. Regulations	10
7. Tax Calender	13
8. About Us	14

August was a good month for few businesses, though as per the reports on the economy, the GDP of India for the first quarter FY 20-21 contracted by 23.9 percent, though it was less than world biggest economy USA which contracted by 32.9 percent. The year wise impact of GDP contraction is estimated at 10 percent. Another big world economy, UK shrank by 20.4% in the first three months of the year as the coronavirus lockdown badly affected the country.

In a major initiative in tax transparency and to make tax system free from any graft, India has introduced face less assessments, accordingly Central Board of Direct Taxes (CBDT) amended the "E-assessment Scheme" and it will be known as "Faceless Assessment Scheme", it will be effective from September 25,2020. This scheme is a part of Transparent Taxation platform. The faceless assessment will include all the assessments covered under e-assessment and it will also include the appeals and the best judgement assessment. CBDT has prescribed its procedure i.e. how the assessment will be conducted in future world of digitization.

In space of Indirect taxes as a relief measure, with effect from 1st September 2020 the interest liability shall be levied on the portion of the GST that is paid by debiting the electronic cash ledger. This means the interest shall be payable on the net liability after adjusting the same from the available input tax credit.

On regulatory side, to smoothen the functioning of companies affected by Covid 19 and bringing a way forward to Annual General meeting compliance by stakeholders, the Ministry of Corporate Affairs had issued a clarification on the extension of holding of Annual general meeting beyond the statutory period provided as per the Companies Act, 2013, where by the companies can apply for extension for three months.

We sincerely hope this volume of newsletter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations.

Happy Reading!!

Sincerely Yours,

Rajat Chawla

Managing Partner & CEO

New Delhi

Ministry of Defence (MoD) has formulated a draft Defence Production and Export Promotion Policy 2020 (DPEPP 2020) which is envisaged as an overarching guiding document of MoD to provide a focused, structured, and significant thrust to defence production capabilities of the country for self-reliance and exports.

Economic highlights in August 2020:

- **NABARD launches credit guarantee programme for NBFC-MFIs:** The National Bank for Agriculture and Rural Development (NABARD) introduced a dedicated debt and credit guarantee product to guarantee unhindered flow of credit in rural areas hit by the COVID-19 pandemic and launched “Structured Finance and Partial Guarantee Programme” to NBFC-MFIs, which entails offering a partial guarantee on pooled loans extended to small and mid-sized micro finance institutions (MFIs).
- **Digital payments market in India likely to grow 3-folds to Rs 7,092 trillion by 2025:** A fresh report, researched by Consulting agency, stated that Digital payments in India are expected to increase over three-folds to Rs 7,092 trillion (US\$ 100.61 trillion) by 2025 on account of government policies around financial inclusion and growing digitisation of merchants.
- **Oil & Gas sector is getting kick started with 8,363 projects since 20th April this year:** Oil and Gas industry has kick-started economic activities/projects, with projects numbering to 8,363 with an anticipated cost of Rs 5.88 lakh crore (US\$ 83.42 billion) which resumed progressively since 20.04.2020, following all pandemic related SOP.
- **UK officially in recession for first time in 11 years:** With its biggest slump on record between April and June, the UK economy officially went into recession with economy shrank 20.4% compared with the first three months of the year as the coronavirus lockdown badly effected the country.
- **India needs to look at ESG factors to attract major FDI investment:** According to the latest data put out by the Reserve Bank of India (RBI), Forex reserves continued to hit record high levels as they rose by \$1.275 billion for the week ended July 17 to \$517.63 billion.
- **India’s plan to Increase two-way investments in post-Covid scenario with Poland:** To expand the market and investment, Poland which is Key Central Europe nation is keen to Invest in India and would like to invite more Indian Investors to do business in Poland. PM Narendra Modi is ambitious in creating new investment opportunities in India in the post-COVID period and on facilitating the inflow of foreign investments. India is the primary location in Asia for Polish investors (currently 270 million USD).
- **Foundation stone for 45 highway projects by Nitin Gadkari:** Union Minister for Road Transport, Nitin Gadkari has inaugurated and laid the foundation stone of 45 highway projects for Madhya Pradesh worth a construction value of Rs. 11,427 crore through a virtual ceremony, it will help to enhance better connectivity and economic growth in and around the states. These projects are for the construction of 1316 km of highways.
- **Singapore planning to hike minimum pay for foreigners in financial services:** The increase of minimum qualifying salary to \$3,659 for entry-level employment pass for foreigners in the financial services sector is being planned by Singapore’s Ministry of Manpower to support the Singaporeans.
- **78 New Routes Approved Under UDAN 4.0:** 78 new routes under the 4th round of Regional Connectivity Scheme (RCS) - Ude Desh Ka Aam Nagrik (UDAN) have been approved following the three successful rounds of bidding by the Ministry of Civil Aviation. This will further enhance the connectivity to remote and regional areas of the country.

Goods and Service Tax

Notification No. 61/2020 – Central Tax

With effect from 1st October 2020, provisions of e-invoice have come into force. Through this notification government has increase the limit of aggregate turnover from Rs. 100 Crore to Rs. 500 Crore as the class of person who are required to generate e-invoice through e-invoice portal.

Notification No. 62/2020 – Central Tax

With effect from 21st August 2020 government vide this notification mandates the authentication of Aadhaar Number while submitting the application and the date of authentication of such Aadhaar number shall be considered the date of submission of such application.

Further where the person fails to undergo Aadhaar authentication or does not opt for authentication of Aadhaar number then the registration shall be granted only after physical verification of the place of business in the presence of said person.

Notification No. 63/2020 – Central Tax

With effect from 1st September 2020 the interest liability shall be levied on the portion of the tax that is paid by debiting the electronic cash ledger. This means the interest shall be payable on the net liability after adjusting the same from the available input tax credit.

Direct Tax

Faceless Assessment Scheme

CBDT amended the “E-assessment Scheme” and it will be known as “Faceless Assessment Scheme”, it will be effective from September 25, 2020. This scheme is a part of Transparent Taxation platform.

The faceless assessment will include all the assessments covered under e-assessment and it will also include the appeals and the best judgement assessment u/s 144.

CBDT has prescribed the scheme and its procedure how the assessment will be conducted in future.

CBDT notifies Rule 114AAB which specifies non applicability of PAN to a Non-Resident

The Rule 114AAB provides exemption from obtaining PAN to Non- Residents who has made investment in a fund which is established in the form of Company or LLP or trust or any body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India.

The Fund is required to report the details related to Non-Resident in Form 49BA to the Income Tax Authorities.

- [Notification 58/2020]

CBDT specifies additional requirement for a pension fund under Section 10(23FE) to avail exemption.

CBDT notifies Rule 2DB which specifies requirement for a pension fund to be categorized as eligible assessee to avail exemption from Income Tax for income earned in India.

- [Notification 67/2020]

CBDT substitutes the Rule 12CB which specifies statement under Section 115UB.

Notification has substituted the Rule 12CB which specifies the statement to be issued by business trust to its unit holder. The substituted rule has amended the due dates and notified the new Form 64C and Form 64D.

- [Notification 55/2020]

Imposition of Charge on the payment methods specified under Section 269SU of Income Tax Act

As per Section 269SU, Companies having turnover more than INR 50 crores are required to provide facilities for accepting payment through the following:

- 1) Debit Cards powered by RuPay
- 2) Unified Payments Interface (UPI) (BHIM UPI)
- 3) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM UPI QR Code)

In December 2019, CBDT issued a circular clarify that there is no charge applicable on payment made through above methods after January 01, 2020. However, CBDT have received representations regarding imposition and collection of charge by banks of making payment through UPI.

Therefore, Banks are advised to refund any charge (if any) collected by them after January 01,2020.

-[Circular 16/2020]

Refunds

CBDT has issued refunds of over Rs 95,853 crore to more than 25.55 lakh taxpayers between 1st April, 2020 to 25th August, 2020. Income tax refunds of Rs 29,361 crore have been issued in 23,91,517 cases & corporate tax refunds of Rs 66,493 crore have been issued in 1,63,272 cases.

Delivery-based share-trading is not considered as speculative business

The assessee purchased shares with delivery option, and it were considered as speculative. However, ITAT held that only those shares transactions which are purchased/sold without any delivery are considered as speculative. Therefore, the above share transaction was not considered speculative and was allowed to set off against business income.

- Vishanji Khimji Karani [TS-398-ITAT-2020(HYD)]

Merely 'owning' 2nd residential property jointly with wife doesn't tantamount to purchase

Assessee and his wife sold shares and capital gain was applicable so to avail exemption from Capital gain, they purchased house property and registered themselves as joint owners. However, both claimed themselves as sole owner and was availing exemption. However, the exemption was not allowed to the assessee, as he has purchased ownership right not the residential house.

- Shree Anil Dev [TS-432-ITAT-2020(Bang)]

TDS credit denial vide Sec. 143(1) intimation without assigning reasons is a legal irregularity

Assessee Company had received advance during last year and had recognized a portion of advance as income and the TDS was claimed only on the respective part. In the next year, assessee recognized remaining part as income and claimed TDS thereon, however while processing the ITR by Centralized Processing Centre, the intimation u/s 143(1) does not provide the reason of disallowance of TDS. Assessee was not allowed credit of TDS by A.O. and assessee filed an appeal before CIT(A) with delay, which was dismissed. ITAT found that the impugned disallowance of credit of TDS under intimation u/s 143(1) of the Act suffered legal irregularity and cannot be sustained.

- AWP Assistance (India) Pvt. Ltd [TS-403-ITAT-2020(DEL)]

Interest paid on loan raised against FDRs, deductible u/s.57(iii); Cites direct nexus with FDR interest

Assessee had raised loans for giving money to his son, however he had FDRs. The premature of FDRs would lead to levy of penalty @ 1.5%, therefore assessee chose to pay 1% interest on the loan raised against the FDR, thereby saving 0.5%. The assessee by raising the loans against the FDR and not encashing prematurely the assessee saved the interest and also kept the income earning apparatus intact, therefore the disallowance was not justified particularly when the assessee has shown the income under the head 'income from other sources' and not the business income. Therefore, the interest paid in the present case is having the direct nexus with the interest received from the FDRs.

- Anjana Vinayak [TS-391-ITAT-2020(CHANDI)]

Assurance and Accounting

Guidance Note on Accounting

Exposure Draft of Guidance Note on 'Revenue from Operations in case of Contractors'

The Research Committee of the Institute of Chartered Accountants of India is one of the technical committees set up in 1955 with a view to undertake research activities to improve the quality of services rendered by the profession. The primary objective of Research Committee is to undertake research in the field of accounting and other affiliated areas with a view to enhance the value of services rendered by the profession. To formulate Guidance Notes on accounting aspects to be issued under the authority of the Council of the Institute.

Research Committee has invited comments from the stakeholders on recently hosted **Exposure Draft of Guidance Note on 'Revenue from Operations in case of Contractors'**.

This Guidance Note deals with the issue whether the revenue recognised in the financial statements of contractors as per the requirements of Accounting Standard (AS) 7, Construction Contracts (Revised 2002) and Ind AS 115 Revenue from Contracts with Customers, can be considered as Revenue from Operations for presentation in Schedule III to Companies Act, 2013'.

The complete text of the exposure draft is available at:

<https://resource.cdn.icaai.org/60469research49279.pdf> and the last date for comments is **August 31, 2020**.

Comments may be submitted over email at: research@icaai.in.

ICAI Announcements

Review Engagements on Interim Financial Information in the Current Evolving Environment Due to COVID-19

Auditing and Assurance Standards Board (AASB) has issued many guidance documents on audit in current pandemic situation, which required auditors to consider different key areas such as Going Concern, Physical Inventory Verification, Auditor's Reporting, Subsequent Events and many other presentations & disclosures.

This time AASB has issued a document on "Review Engagements on Interim Financial Information in the Current Evolving Environment Due to COVID-19".

This document has been prepared to highlight key areas of focus in the current environment when undertaking a review of interim financial information in accordance with Standard on Review Engagements (SRE) 2410, "Review of Interim Financial Information Performed by the Independent Auditor of the Entity".

This document does not amend or override SRE 2410. Reading this document is not a substitute for reading SRE 2410.

This document highlights key considerations for auditors performing reviews of interim financial information in accordance with SRE 2410, given the unique challenges that may arise in the current environment. Also, Early planning (or reconsideration, if already planned) of the possible effects of the COVID-19 pandemic on the engagement will be essential, as auditors may need additional resources and time to plan and perform the engagement. In the case of group engagements, there may be a need for more engagement with, and involvement of, component auditors. In addition, auditors may determine it necessary to communicate more extensively (and more often) with those charged with governance in the current environment, for example, regarding the application of the financial reporting framework, or changes in controls in the evolving circumstances.

This guidance document specifies many areas on which auditor is required to focus considering the impact due to COVID-19.

This document is hosted on: <https://resource.cdn.icaai.org/60696aasb49345.pdf>

Regulations

August, 2020 was the another month where on one hand stakeholders struggled to buck up their financial position and on the other hand, it was considered as the month of execution of regulatory changes which was earlier brought in by the government of India with the concept of easing the compliance burden on companies due to COVID-19.

COMPANY LAW RELATED CHANGES

A. Clarification on the extension of Annual General Meeting (AGM) for the financial year ended as at 31.03.2020

To smoothen the functioning of companies and bringing a way forward to Annual General meeting compliance by stakeholders, the Ministry of Corporate Affairs had issued a clarification on the extension of holding of Annual general meeting beyond the statutory period provided as per the Companies Act, 2013.

The Ministry clarified that they received several representations regarding such extension despite of their earlier circular issued regarding holding of AGM through video conferencing (VC) or other audio visual means (OAVM) for the calendar year 2020 as it is difficult for the companies to hold their Annual general meeting. Based on such representations, the ministry brought in this circular clarifying that the companies which are unable to hold their AGM for the financial year ended on 31.03.2020 can opt to file their applications in form No. GNL-1 for seeking an extension of time in holding of AGM for the financial year ended on 31.03.2020 with the concerned Registrar of Companies on or before 29.09.2020.

The Ministry Advised Registrar of Companies to consider all such applications (filed in Form No. GNL-1) liberally in view of the hardships faced by the stakeholders and to grant extension for the period as applied for (upto three months) in such applications.

B. Clarification on dispatch of notice under section 62(2) of Companies Act 2013 by listed Companies

MCA had vide its General Circular No. 27/2020 dated 3rd August, 2020, extended the applicability of Circular No. 21/2020 dated 11th May, 2020, from 31st July, 2020 to 31st December, 2020.

Accordingly, in the case of listed companies, which comply with relevant circulars issued by SEBI, inability to dispatch the relevant notice to shareholders through registered post or speed post or courier would not be viewed as a violation of section 62(2) of the Act for rights issues opening upto 31st December, 2020.

C. Companies (Corporate Social Responsibility Policy) Amendment Rules, 2020

MCA has vide its notification dated 24th August, 2020, has inserted proviso in Companies CSR Policy Rules for the companies engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business. The amendment further lays down that such companies may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22 and 2022-23 subject to conditions prescribed.

Further, by virtue of this amendment, Company can now undertake CSR activities, projects or programs in pursuance of its normal course of business.

D. Amendment to Companies (Management and Administration) Rules, 2014

MCA has vide its notification dated 28th August, 2020 has inserted proviso to Rule 12 of Companies (Management and Administration) Rules, 2014 and has provided that a company shall not be required to attach the extract of the annual return with the Board's report in Form No. MGT.9, in case the web link of such annual return has been disclosed in the Board's report in accordance with sub-section (3) of section 92 of the Companies Act, 2013.

MICRO, SMALL & MEDIUM ENTERPRISES (MSME)

Clarification on existing Entrepreneurs Memorandum (EM) Part-II/ Udyog Aadhaar Memorandum (UAM)/ New Udyam Registration

Referring to the Notification dated 26.06.2020 issued by the Ministry of Micro, Small & Medium Enterprises (MSME) regarding the revised criteria for classification as MSME and their registration in the new portal "Udyam Portal, the government states that they have received some representations seeking clarifications on certain issues and thus ministry came up with office memorandum dated 06th August, 2020 clarifying such issues as below:

- **Validity of EM Part II and UAMs as issued till 30th June, 2020:** It was clarified and emphasized that all the existing EM Part II and UAMs obtained till 30.06.2020 shall remain valid till 31.03.2021.
- **Editing/ updating of the existing registration details:** There were also doubts whether existing UAM holders may edit or amend their details on the UAM portal, so it was clarified that the same can be done till 31.3.2021.
- **Action to be taken before 31st March 2021 by Entrepreneurs:** It is strongly recommended by the ministry that all enterprises with EM Part II and/or UAMs are advised to register themselves on the Udyam Registration well before 31.03.2021 in the Udyam Registration portal.
- **Value of Plant and Machinery or Equipment:** The expression plant and machinery or equipment of the enterprise, shall have the same meaning as assigned to the plant and machinery in the Income Tax Rules, 1962 framed under the Income Tax Act, 1961 and shall include all tangible assets (other than land and building, furniture and fittings)".

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

- i. Notification dated 05th August, 2020 w.r.t the Insolvency and Bankruptcy Board of India (Liquidation Process) (Third Amendment) Regulations, 2020 has amended regulation 4 relating to 'Liquidator's fee' by inserting the clarification to the criteria where it is stated that fee shall be paid as a percentage of the amount realised net of other liquidation costs, and of the amount distributed, for the balance period of liquidation as prescribed in the Regulations. The clarification states that where a liquidator realises any amount, but does not distribute the same, he shall be entitled to a fee corresponding to the amount realised by him. Likewise, where a liquidator distributes any amount, which is not realised by him, he shall be entitled to a fee corresponding to the amount distributed by him.
- ii. Notification dated 05th August, 2020 w.r.t the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Second Amendment) Regulations, 2020 provides that the corporate person may replace the liquidator by appointing another insolvency professional as liquidator by a resolution of members or partners, or contributories, as the case may be.
- iii. Notification dated 07th August, 2020 w.r.t the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2020 has amended the following regulations-
 - a. Regulation 4A relating to Choice of authorized representative for class of creditors who shall be three insolvency professionals identified by interim resolution professional has been amended to provide that such insolvency professional shall be from such state or Union territory where maximum creditors as per company records are located.

- b. Regulation 39 relating to approval of resolution plan has been amended by elaborating the criteria as per which Committee shall consider the plan as approved.

FEMA RELATED CHANGES

a. Review of guidelines for Core Investment Companies

Reserve Bank of India has revised the guidelines applicable for Core Investment Companies based on the recommendations of the working group to Review the Regulatory and Supervisory Framework for Core Investment Companies (CICs) and inputs received from stakeholders after they review the Regulatory and Supervisory Framework for Core Investment Companies (CICs).

The heads which have been revised are definition of adjusted net worth, group structure, risk management, corporate governance and disclosure requirements, consolidation of financial statements (CFS), exceptions to carrying other financial activity, registration and change in nomenclature.

b. Other RBI related changes

- i. In order to support the viable MSME entities on account of the fallout of Covid19, it has been clarified that existing loans to MSMEs classified as 'standard' may be restructured without a downgrade in the asset classification, subject some specified conditions.
- ii. It has now been decided that the banks investing in debt mutual fund/exchange traded fund (ETF) shall compute capital charge for market risk per the set guidelines and in case of debt mutual fund/ETF which contains a mix of the above debt instruments, the specific risk capital charge shall be computed based on the lowest-rated debt instrument/instrument attracting the highest specific risk capital charge in the fund.
- iii. To mitigate the economic impact of the Covid19 pandemic on households, entrepreneurs and small businesses, it has been decided to increase the permissible loan to value ratio (LTV) for loans against pledge of gold ornaments and jewellery for non-agricultural purposes from 75 percent to 90 percent.
- iv. The instructions on opening of current accounts by banks have been reviewed and the revised and more disciplined instructions have been issued.
- v. Reserve Bank of India (RBI) had announced the introduction of Online Dispute Resolution (ODR) system for resolving customer disputes and grievances pertaining to digital payments, using a system-driven and rule-based mechanism with zero or minimal manual intervention.
- vi. Reserve Bank would bring a pilot scheme for small value payments in offline mode using Cards/Wallets/Mobile Devices. Under the pilot scheme, payment system operators (PSO) – banks and non-banks – may offer digital payments offline, i.e., payments that do not require internet connectivity to take effect.
- vii. In order to improve the efficiency, transparency and integrity of the asset classification process, it has been decided by RBI to implement system-based asset classification in urban co-operative banks (UCBs).

JPC is a professional services firm based in New Delhi & Noida, India. We were established in the year 1974 with the aim to create value for our clients by delivering quality, comprehensive, timely, practical and innovative services. We offer a comprehensive range of services, including taxation services, regulatory services, transaction advisory services, financial & management consultancy services, assurance & risk services, and outsourcing services. Over the past several decades, we have established significant competitive presence in the country. Our vast and diversified client base includes Multinational enterprises, domestic companies, high net worth individuals, government companies and institutions in all leading industry verticals. We are a team of distinguished Chartered Accountants, Management Accountants, Corporate Financial Advisors and Tax Consultants. Our team has the requisite skills and experience to provide complex business, financial, assurance, tax and regulatory services to our clients. Our strength lies in our timely performance-based, industry-tailored and technology-enabled services which are delivered by some of the most talented professionals in the country. For more information about JPC's service offerings, visit www.jpc.co.in

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