NEWSLETTER

April 2021

J P Chawla & Co. LLP

Chartered Accountants

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

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The pandemic has taken a lethal surge in India and has put an enormous strain on the health infrastructure with shortages of essential supplies, disrupting normal life and even causing the death of various individuals.

It is expected that the Indian economy will perform poorly in the Q2 of 2021, but even after a poor performance the fundamentals of India's economy remain strong, and it is bound to come back strongly once the wave of Covid 19 is over. An 8% GDP growth is estimated in FY 2021-22.

The financial stimulus is expected from the government of India, as the pandemic has extensively impacted the personal economy of every Indian Citizen.

In the area of direct taxes, the CBDT has inserted a new sub-rule under rule 6G which allows revision of Tax Audit report before end of assessment year if there is re calculation of disallowances under Section 40 and 43B. CBDT has also extend few compliance dates due to COVID-19.

GST collections in April were at all-time high amounting to INR 1.4 Lakh crores. Certain GST related compliance relaxations have been introduced due to COVID -19.

In view of the ongoing pandemic, the Ministry of Corporate Affairs has clarified that spending of CSR funds for 'setting up makeshift hospitals and temporary COVID Care facilities' is an eligible CSR activity.

Further, considering the requests from stakeholders, including industry associations, and with a view to provide relief to the ECB borrowers affected by the Covid-19 pandemic, RBI has as a one-time measure, decided to relax the stipulation to park ECB proceeds in term deposits with AD Category-I banks in India for a maximum period of 12 months cumulatively. Accordingly, un-utilized ECB proceeds drawn down on or before March 01, 2020, can be parked in term deposits with AD Category-I banks in India prospectively for an additional period up to March 01, 2022.

We sincerely hope this volume of the 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

With the second wave of the pandemic, India is trying to come out of the woods and working on strategies to recover the Indian economy. As part of the world's largest vaccination drive, COVID-19 vaccine doses administered in the country have crossed the landmark of 14 crores recently.

Economic and Trade highlights in April 2021:

- **India ranks 87th in global energy transition index:** According to a survey, India is ranked 87th out of 115 countries in the Energy Transition Index (ETI). The top ten countries in the index are all from Western and Northern Europe, with Sweden topping the list, followed by Norway (2nd), and Denmark (3rd).

- **India's 4G subscriber base may grow to 820 million in FY22, says Crisil:** Despite a COVID-19 increase, India's 4G user base is projected to increase to around 820 million in FY22, according to Crisil Research. The Big 3 telcos are expected to use their newly acquired airwaves to improve coverage and drive the country's remaining 250-300 million feature phone users to upgrade to 4G.

- **Businesses owned by women entrepreneurs likely to grow up to 90% in next 5 years in India:** According to a new report conducted by a philanthropic organisation, women-owned businesses in India are projected to accelerate by ~ 90% in the next five years. Nearly 3,300 women entrepreneurs were identified during the mapping of 13 states and UTs regions, which were divided into three categories: manufacturing, retail, and service delivery. A total of 1,235 women entrepreneurs were chosen for the study and interviewed.

- **Dabur India hits Rs. 1 trillion in market capitalization:** Dabur India Ltd.'s shares reached a new all-time high, positioning it in the exclusive group of companies with a market capitalization of Rs. 1 trillion (US$ 13.33 billion).

- **India-Denmark join hands through Atal Innovation Mission for global collaboration towards world class innovative solutions addressing water challenges & SDGs:** As part of Indo-Danish bilateral Green strategic partnership, India is all set to take a giant leap towards building a world-class innovation ecosystem as Atal Innovation Mission (AIM) of India's premier policy think tank NITI Aayog and Embassy of Denmark to India today officially announced their collaboration. Under this ambitious partnership, Innovation Centre Denmark in India will collaborate with AIM to support various current and future initiatives of AIM, NITI Aayog and its beneficiaries in India as well as develop global innovation Green economy partnerships addressing SDG goals.

- **MoU between India and Japan for Academic and Research Cooperation and Exchange:** The Union Cabinet on Wednesday was apprised of a Memorandum of Understanding (MoU) signed between India and Japan in areas of atmospheric science and technology, a statement said. "This MoU shall enable NARL and RISH to continue their cooperation in areas of atmospheric science and technology, collaborative scientific experiments/campaigns and related modelling studies utilising the research facilities of RISH and NARL, exchange of scientific materials, publications and information, joint research meetings and workshops, exchange of faculty members, students and researchers," the statement said.

- **Fabulous FY21: India biggest recipient of FPI inflows worth Rs. 2.6 lakh crore:** According to experts, India has been the largest beneficiary of foreign portfolio investments this fiscal year, with net inflows of Rs. 2.6 lakh crore (US$ 35.41 billion), attributable to adequate liquidity in global markets and expectations of a faster economic recovery. The highest amount invested in the equities segment was Rs. 2,74,503 crore (US$ 37.39 billion), ever since the National Securities Depository Ltd started making FPI data publicly accessible.

- **India, UAE and Israel's trilateral trade could reach US$ 110 billion by 2030:** Top diplomats: Tapping into the mutual strengths of India, Israel and the UAE could propel the trilateral trade between the countries to a high of USD 110 billion by 2030, top diplomats and members of the business community have said.The remarks were made at an event hosted by the International Federation of Indo-Israel Chambers of Commerce (IFIICC) to discuss current business collaborations between the two countries.Ambassador, Mr. Ilan Sztulman Starosta, Head of the Israeli mission in Dubai, said "By 2030, the foreign market opportunity backed by Israeli development, the UAE's visionary leadership, and both countries' trading relationship with India could be worth US$ 110 billion."

Goods and Service Tax

Notification No. 07/2021 – Central Tax
Verification of GSTR-1 and GSTR-3B through EVC

Earlier the verification of GSTR-1 and GSTR-3B of a registered person who is registered under Companies Act 2013 are required to be done through digital signature. A proviso has been inserted to provide that the GSTR-1 and GSTR-3B of a company during the period 27th Day of April 2021 to 31st May 2021 shall be allowed to verify through electronic verification code (EVC).

Neuvera Wellness Ventures Private Limited vs.The State of Gujarat. [TS(DB)-GST-HC(GUJ)-2019-457]
Absent reasoned order, directs release of imported goods detained for non-compliance with E-way Bill

Gujarat HC directs the release of vehicle along with the imported goods, perishable in nature, subject to furnishing of bond; Notes that goods cleared upon payment of customs & IGST, and moved from customs warehouse to petitioner's own godown were detained on the ground that Part-B of E-way bills was not generated; Observing that, basis for computing the additional tax was IGST paid by the petitioner, finds that order is "totally bereft of any reasoning" for the purpose of holding the petitioner liable to payment of tax and penalty, hence, same stands vitiated; Explains that "Reasons, it is well known, are the heart and soul of an order passed by a judicial/quasi-judicial order, without which it is difficult to pronounce one way or other as regards the validity of such order"; Stating that, "liability of the petitioner shall be considered independently", directs Revenue to decide the matter afresh and pass a speaking order.

Sanofi India Limited [TS(DB)-GST-AAAR(MAH)-2019-740]
AAAR: No advance-ruling owing to Members' divergent opinion over ITC eligibility of Sanofi's promotional schemes

Maharashtra AAAR records divergent views of Members on ITC eligibility to Appellant (engaged in pharmaceutical business) on (i) sales promotion schemes namely, "Shubh Labh Trade Loyalty Program" and (ii) brand reminder products embossed with the brand "Sanofi" and provided free of cost (FOC) to distributors/doctors; Member (CGST), setting-aside the order of AAR holds that ITC is available of GST paid on expenses incurred towards promotional schemes as well as brand reminders observing that promotional scheme " is designed with the sole purpose of the furtherance of their business and is thus purely driven by the commercial intentions" and fulfill conditions stipulated for input and input services under section 2 (59) and section 2 (60);

Infers that Appellant is not in the business of supply of the subject goods or services as specified in the catalogue of promotional scheme and as goods/services are inputs/input services, "the same cannot be termed as output supply at the same time", accordingly, the question of such supplies being exempt or non-taxable "do not arise".

Rejecting AAR's finding that promotional goods and services are not voluntary, explains that "Even oral agreement can have requisite legal validity and force…" highlighting that as per the digital agreement, participating wholesalers are allowed to be part of the subject scheme only after accepting terms & conditions of the program; Observes that though there is no direct consideration in the monetary terms….but it is conspicuous from the subject scheme that the subject transaction…..is the consequence or the outcome of the antecedent, which is the purchase of the Appellant's pharmaceutical products by the wholesalers in order to claim more rewards and points…….", thus there is an indirect involvement of the consideration;

Further, finds that, there is presence of the pure commercial intention i.e. to increase their business and sales and hence, promotional scheme is not gift as it does not satisfy the essential ingredients of gifts as envisaged by SC, hence provision of Section 17(5)(h) is inapplicable.

On the contrary, Member SGST perusing the grounds of appeal infers that "contention of appellant suffers from an inherent contradiction". Explains that on one hand appellant contends that giving away of the goods is not a barter as there is no separate service rendered by the recipient in such transactions and on the other hand it is submitted that the goods are not given as gifts as the goods are given as a part of the contractual obligation.

Discarding two arguments of appellant viz. (i) there is no consideration and no barter and (ii) it is not a gift as there is a contractual obligation, Member SGST concludes that provision of goods/services is given as gifts by the appellant to the distributors/ wholesalers. Citing that section 17 (5)(h) starts with a non-obstante clause where it overrides section 16 (1) of the CGST Act, Member SGST upholds the AAR order and opines that "these goods are inputs but distributed as free gifts.

Therefore ITC is not available as per section 17 (5) (h)". Considering divergent views of Members, AAAR, in conclusion, elucidates that "as per Section 101 (3) of the CGST Act, it shall be deemed that no advance ruling can be issued in respect of the question under appeal.

Direct Tax

Amendment in Tax Audit

The CBDT has inserted a new sub-rule under rule 6G which allows revision of Tax Audit report before the end of assessment year if there is recalculation of disallowances under Section 40 and 43B.

Following are the amendments in Tax Audit Report

a. In Clause 8 of Form 3CD which requires the auditor to report whether new regime of taxation has been exercised by Assessee, has included the following sections:
   - Section 115BAC – New Regime of Taxation for Individual or HUF
   - Section 115BAD – New Regime of Taxation for Co-operative

b. In Clause 17 of Form 3CD which requires auditor to report regarding transfer of land or building less than Stamp duty value has been amended and requires auditor to report whether provisions of the second provisio of Section 43CA (1) or fourth proviso of Section 56(2)(x) is applicable or not.

c. In Clause 18 of Form 3CD which requires reporting of depreciation as per the Income Tax Act has been amended to include the following
   - Adjustment of unabsorbed depreciation to the written down value under section 115BAC/115BAD
   - Adjustment made to written down value of Intangible asset due to excluding the value of goodwill of a business or profession.

d. In Clause 32 of Form 3CD which requires reporting of brought forward of losses and unabsorbed depreciation as per Income Tax Act has been amended and requires the reporting of adjustment of unabsorbed depreciation under Section 115BAC or 115BAD.

   -[Notification No. 28 /2021]

Authorisation of Authority for Registration of Charitable Organisations

The CBDT has authorised Director of Income Tax(Centralized Processing Centre), Bengaluru and Commissioner of Income-Tax (Exemption), Bengaluru for the purpose of registration or renewal of registration u/s 12AB of Income Tax Act, 1961.

-[Notification No. 30 /2021]

Amendment in Rule 10DA and Rule 10DB

The CBDT has amended Rule 10DA which prescribed the "Maintenance and Furnishing of Information and document under Section 92D". The CBDT has amended and requires only the constituent entities of an international group required to file the information and document under sub-rule (2) to file Form 3CEAA.

The CBDT has amended Rule 10DB which prescribes the "Country By Country Reporting Rules". The CBDT has increased the threshold limit of consolidated revenue to INR 6,400 crores from INR 5,500 INR.

- [Notification No. 31/2021]

Format, Procedure and Guidelines for submission of Statement of Financial Transactions (SFT) for Interest income and Dividend

CBDT has prescribed the format, procedure and guidelines for submission of Statement of Financial Transactions for the interest income and dividend.

- [Notification No. 1 and 2/2021]

Extension of Due Dates

CBDT has extended the following due dates due to COVID -19.

1. The time limit for completion of any assessment or reassessment u/s 153 or 153B of Income Tax Act, 1961 expiring on April 30th, 2021 has been extended to June 30th, 2021.
2. The time limit of issuance of notice under Section 148 Income Tax Act, 1961expiring on April 30th, 2021 has been extended to June 30th, 2021.
3. The time limit of passing of order under Section 144CIncome Tax Act, 1961expiring on April 30th, 2021 has been extended to June 30th, 2021.
4. The time limit of passing of order under Section 168 of Finance Act, 2016 expiring on April 30th, 2021 has been extended to June 30th, 2021.
5. The date of payment under Direct Tax Vivad se Vishwas Scheme without any payment of additional amount has been extended from April 30th, 2021 to June 30th, 2021.

-[Notification No. 38 and 39/2021]

Assurance & Accounting

IFRS/Indian Accounting Standards

Exposure Draft of COVID-19 Related Rent Concessions beyond June 30, 2021 (Amendments to Ind AS 116)

Indian Accounting Standards (Ind AS) are derived from IFRS Standards issued by the International Accounting Standards Board (IASB). IFRS Standards are globally acceptable high-quality financial reporting standards with a dynamic framework that undergoes reforms periodically to keep pace with the evolving business and economic environment.

IFRS Standards are being issued/revised by the IASB from time to time. The convergence being a continuous process, the Ind AS need to be issued/revised corresponding to the IFRS Standard in order to remain converged with IFRS. Therefore, whenever any amendments are made or new IFRS/ IFRIC by the IASB, the ICAI also considers amendments with respect to Ind AS as per due process.

The IASB had issued COVID-19-Related Rent Concessions, which amended IFRS 16, Leases, in May 2020. The 2020 amendment permitted lessees, under paragraph 46A of IFRS 16, as a practical expedient, not to assess whether particular rent concessions occurring as a direct consequence of the COVID-19 pandemic are lease modifications and, instead, to account for those rent concessions as if they were not lease modifications.

Among other conditions, the 2020 amendment permitted lessees to apply the practical expedient to rent concessions for which any reduction in lease payments affects only payments originally due on or before 30 June 2021. The IASB included this condition to:

1. provide relief to lessees during the height of the pandemic when they were expected to need it most;
2. address concerns from users of financial statements about the usefulness of the information that would be provided if the practical expedient were to be applied beyond when it is needed most; and
3. make the practical expedient easier to apply.

Since Indian entities preparing Ind AS based financial statements were facing similar challenges and situations like the International scenario and to remain converged with IFRS standards, amendments to Ind AS 116, corresponding to aforesaid amendments issued by IASB, as recommended by ICAI and examined and recommended by NFRA, were notified by the MCA on July 24, 2020.

In March 2021 the IASB has issued Covid-19-Related Rent Concessions beyond 30 June 2021 (the 2021 amendment), to extend the availability of the practical expedient in paragraph 46A by one year so that it applies to rent concessions for which any reduction in lease payments affects payments originally due on or before 30 June 2022, provided the other conditions for applying the practical expedient are met. The objective of the proposal is to continue providing lessees with practical relief during the on-going COVID-19 pandemic while enabling them to continue providing useful information about their leases to users of financial statements. This document of the exposure draft is hosted on **https://resource.cdn.icai.org/64350asb51603.pdf** and comments on this document can be offered till 17th April 2021.

Exposure Draft of Lack of Exchangeability

Indian Accounting Standards (Ind AS) are based on the IFRS Standards issued by the International Accounting Standards Board (IASB) of IFRS Foundation. The IASB, before issuing the new/amendments to IFRS Standards, issues consultative documents (such as Discussion Paper (DP), Exposure Draft (ED), etc) seeking public comments from across the globe. The Accounting

Standards Board (ASB) of ICAI with the aim to provide an opportunity to the various stakeholders in India to raise their concerns at the initial International Standard-se++tting stage itself, invites comments on the consultative documents issued by the IASB. It also helps the Indian stakeholders to be aware of the preparations required for the implementation of Ind AS in line with adhering to global timelines. At present, the following Exposure Draft issued by the IASB is open for comments for proposed guidance for itself when developing and drafting disclosure requirements in IFRS Standards in the future.

Lack of Exchangeability

IAS 21 sets out the exchange rate a company uses when it reports foreign currency transactions or a foreign operation's results in a different currency. However, the Standard does not set out the exchange rate to use when there is no observable exchange rate the company can use-such as when a currency cannot be converted into a foreign currency. The proposed amendments would help companies in determining whether a currency can be exchanged into another currency, and what accounting to apply if the currency cannot be exchanged. This document of the exposure draft is hosted on **https://resource.cdn.icai.org/64592asb-ed2021.pdf** and comments to ASB can be offered up to 30th June 2021.

Audit and Assurance

Companies (Audit and Auditors) Amendment Rules 2021

Central Government, by exercising of the powers conferred by section 139, 143, 147 and 148 read with sub-sections (1) and (2) of section 469 of Companies Act, 2013, had amended the Companies (Audit and Auditors) Rules, 2014 through Companies (Accounts) Amendment Rules, 2021.

Earlier these rules were effective from 01st April 2021. However, the Central Government has postponed these rules vide notification dated 01st April 2021 and now these rules shall be effective from 01st April 2022.

Financials Statements/Books of Accounts

Companies (Accounts) Amendment Rules, 2021

Central Government, by exercising of the powers conferred by section 134 read with section 469 of Companies Act, 2013 has amended the Companies (Accounts) Rules, 2014 through Companies (Accounts) Amendment Rules, 2021. Following proviso has been inserted to rules:

"Provided that for the financial year commencing on or after the 1st day of April, 2021, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled".

From 1st April 2021, every company will have to configure its existing accounting software or use any new accounting software which has a feature of maintaining an audit trail for each transaction entry any change to such transaction entry.

Earlier these rules were effective from 01st April 2021. However, the Central Government has postponed these rules vide notification dated 01st April 2021 and now these rules shall be effective from 01st April 2022.

Regulations

Company/LLP Law Updates

1. Amendment to Companies Audit and Accounts Rules

Amendment to clause (g) of Companies (Audit and Auditors) Rules, 2014 and Companies (Accounts) Rules, 2014 relating to the matter to be included in Auditors Report with respect to using prescribed accounting software for maintaining books of account of a Company has been made applicable in respect of financial years commencing on or after the 1st April, 2022.

2. Clarification on the spending of CSR Funds

In view of the ongoing pandemic, the Ministry of Corporate Affairs has vide its General Circular No. 5/ 2021 clarified that spending of CSR funds for 'setting up makeshift hospitals and temporary COVID Care facilities' is an eligible CSR activity under item nos. (i) and (xii) of Schedule VII of Companies Act, 2013 relating to the promotion of health care, including preventive health care, and disaster management respectively.

3. Form CSR-1 for registration of entities for undertaking CSR Activities has been made available for filing w.e.f. 16th April, 2021.

Insolvency and Bankruptcy Board of India Updates

Insolvency and Bankruptcy (prepackaged insolvency resolution process) Rules, 2021

Ministry of Corporate Affairs vide its notification dated 9th April 2021 has notified the above-stated rules which shall apply to matters relating to the pre-packaged insolvency resolution process. Pre-packaged insolvency resolution process means the insolvency resolution process for corporate persons under Chapter III-A of Part II of the Code. Insolvency and bankruptcy board of India (pre-packaged insolvency Resolution process) regulations, 2021 has been notified by the Insolvency and Bankruptcy Board of India.

Further, the Central Government has also specified ten lakh rupees as the minimum amount of default for the matters relating to the pre-packaged insolvency resolution process of the corporate debtor.

Foreign Exchange Management Act

External Commercial Borrowings

Considering the requests from stakeholders, including industry associations, and with a view to provide relief to the ECB borrowers affected by the Covid-19 pandemic, RBI has as a one-time measure, vide its Circular dated April 07, 2021, decided to relax the stipulation to park ECB proceeds in term deposits with AD Category-I banks in India for a maximum period of 12 months cumulatively. Accordingly, un-utilized ECB proceeds drawn down on or before March 01, 2020, can be parked in term deposits with AD Category-I banks in India prospectively for an additional period up to March 01, 2022.

TAX CALENDER

May-2021

Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

Date	Regulation	Obligation	Form/Challan No.
7	FEMA	- Last date of reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA	ECB-2
7	Income Tax	- Last date of online payment of Tax deducted at source/Tax collected at source for the month of April-2021	Challan 281
10	GST	- Last date of filing Form GSTR 7 for the month of April-2021 (to be filed by the e-commerce operators required to deduct TDS under GST)	GSTR-7
10	GST	- Last date of filing Form GSTR 8 for the month of April-2021 (to be filed by the person required to deduct TDS under GST)	GSTR-8
11	GST	- Last date of filing Form GSTR 1 for the month of April-2021 for the taxpayer for taxpayer not in QRMP scheme	GSTR-1
13	GST	- Last date of filing Form GSTR 6 for the month of April-2021 (to be filed by input service distributor)	GSTR-6
15	Income Tax	- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB and 194-IM in the month of March-2021	Form 16B & 16C
15	Provident Fund	- Last date of online payment of provident fund for the month of April-2021	PF Challan
15	ESI	- Last date of online payment of ESI fund for the month of April-2021	ESI Challan
20	GST	- Last date of payment of GST and filing of GSTR 3B for the month of April-2021 for taxpayer not in QRMP scheme	Form GSTR-3B and Form GST PMT -06, in case of payment of GST
20	GST	- Last date of filing Form GSTR 5 & 5A and payment of GST for the month of April-2021 (to be filed by non-resident person)	GSTR-5 & 5A
25	Provident Fund	- Provident Fund return filing for April-2021 (including pension and insurance scheme form)	
30	Income Tax	- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, 194-IB and 194M in the month of April-2021	Form 26QB & 26QC
30	Income Tax	- Due date for issuing Quarterly TCS certificate in respect of quarter ending March-2021	Form 27D
31	Income Tax	- Due Dates for E-Filing of Quarterly TDS Return for the quarter ended March-2021	Forms 24Q, 26Q, 27Q

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

In this document, "JPC" refers to J P Chawla & Co. LLP Chartered Accountants (a limited liability partnership firm regulated by the Institute of Chartered Accountants of India, FRN : 001875N/ N500025).

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