

NEWSLETTER

February 2020

J P Chawla & Co. LLP

Chartered Accountants

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



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India or we must say Indian's are going global, which can be deciphered from the fact that the investments made by Indian firms in foreign countries in January 2020 increased by nearly 40 percent to US\$ 2.10 billion on a yearly basis, according to the RBI. January investments were higher than US\$ 1.99 billion in December 2019, showed the RBI data on 'Outward Foreign Direct Investment (OFDI)'.

As a measure for ease of doing business a takeover of code for unlisted companies have been introduced, as per these rules, a member can make an application for arrangement in Form NCLT-1, for the purpose of takeover offer, when such member along with any other member holds not less than 75% of the shares in the company, and wish to acquire any part of the remaining shares of the company.

On direct tax front, earlier the CBDT has extended the last date for linking of PAN with Aadhaar (India's Citizenship identification number) from December 31, 2019 to March 31, 2020. Now the CBDT has prescribed the Rules for making PAN inoperative of those persons who failed to intimate their Aadhaar Number on or before March 31, 2020. It may be noted here that any failure to intimate Aadhaar would not make PAN invalid but it would make it inoperative only for a temporary period of time till such Aadhaar Number is intimated.

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

Higher economic activity is signified by the fact that the GST revenues during the month of January 2020 from domestic transactions has shown an effective growth of 12 percent over the revenue during the month of January 2019. The gross GST revenue collected in the month of January 2020 is Rs 1,10,828 crore (US\$ 15.86 billion) of which CGST is Rs 20,944 crore (US\$ 3 billion), SGST is Rs 28,224 crore (US\$ 4.04 billion), IGST is Rs 53,013 crore (US\$ 7.59 billion) and Cess is Rs 8,637 crore (US\$ 1.24 billion).

Here are the other economic/fiscal highlights for February 2020 :-

- **India Inc's foreign investment jumps 40 percent to US\$ 2.10 billion in January:** The investments made by Indian firms in foreign countries in January 2020 increased by nearly 40 percent to US\$ 2.10 billion on a yearly basis, according to the RBI. January investments were higher than US\$ 1.99 billion in December 2019, showed the RBI data on 'Outward Foreign Direct Investment (OFDI)'.
- **India has potential to increase exports to US\$ 15 billion by 2025:** India has the potential to improve its goods and services exports to Australia to US\$ 15 billion by 2025 and US\$ 35 billion by 2035 according to Ambassador Anil Wadhwa, a former senior Indian Foreign Service (IFS) official. To justify the statement 'Economic and Trade potential between India and Australia', India contributes seven percent of Australia's imports of petroleum and mineral oils. Also, India is a major exporter of refined oil and other products like high-speed diesel, aviation turbine fuel, light diesel oil, etc. It can leverage its strengths in this sector to increase its share in Australia's imports.
- **Exports from SEZs achieve US\$ 100 billion mark; Services sector shows 23.69 percent growth in Rupee terms:** The Special Economic Zones (SEZs) continue to take the lead in expanding the exports for the country. As on 17th Feb 2020, SEZs in India have achieved US\$ 100 billion worth of exports in FY 2019-20. It may be mentioned that SEZs achieved this landmark of US\$ 100 billion worth of exports in 2018-19 in full financial year. It is also observed that while the services segment, constituting majorly of IT & ITeS services was driver of the export growth at 23.69 percent.
- **PE/VC-backed startups created over 26 lakh jobs in 2019:** In 2019, around 26 lakh employment opportunities were created by start-ups backed by private equity and venture capital investors, showing an expansion of 27 per cent from the preceding year, according to the report. Such start-ups had created 20.5 lakh direct and indirect jobs in 2018 and 16.5 lakh employment opportunities in 2017.
- **ONGC, IOC, other oil PSUs to invest Rs 98,521 crore in FY21:** To focus in exploration for oil and gas, refineries, petrochemicals and laying pipelines to meet needs of the world's fastest-growing energy consuming nation, ONGC, IOC and other oil PSUs plan to invest over Rs 98,521 crore (US\$ 14.10 billion) in the coming fiscal year. According to Budget 2020-21 document, this investment proposed in 2020-21 is around four per cent higher than Rs 94,974 crore (US\$ 13.59 billion) spending by the state-owned oil firms in the current fiscal year ended on March 31st.
- **Indian Oil to invest Rs 500 crore in Karnataka:** Indian Oil Corporation (IOC), plans to invest Rs 500 crore (US\$ 71.54 million) at Chitradurga in Karnataka. According to the company, a public sector oil marketing major, the investment will be focused for setting up a terminal for receiving, storage and distribution of petroleum, oil and lubricants (POL) under a common user facility (CUF) spread across an area of about 120 acres.

Goods and Service Tax

Due dates of filling GSTR 3B

Effective Date: 3 Feb 2020

In order to reduce load on the common portal which is usually arising on the last date of filling GSTR 3B the government had introduced the different due dates of filling GSTR 3B in a staggered manner. The dates are applicable for January 2020, February 2020 and March 2020. The due dates are as follows:

State	Turnover of Rs. 5.00 Crore or less	Turnover more than Rs. 5.00 Crore
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	22nd day of the following month	20th day of the following month
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	24th day of the following month	20th day of the following month

Change in rate of tax on Lottery run by the state government

Effective date: 1 March 2020

Earlier the lottery which is run by the state government and which is not allowed to be sold in any state other than the organizing state was taxed at the rate of 12% which is been amended with effect from 1st March 2020. From such date, all lottery shall be taxed at the rate of 28%.

Input Tax Credit

Effective Date: 1 January 2020

Government vide notification has reduced the limit of input tax credit to 10% in place of 20% (notified earlier in Oct 2019) in respect of the invoices which are not reflected in GSTR 2A on the common portal.

New Insertion: Rule 86A

Effective Date: 26 December 2019

Conditions of use of amount available in the electronic credit ledger

Where an officer not below the rank of Assistant Commissioner, having reasons to believe that input tax credit available in electronic credit ledger has been fraudulently availed or is ineligible due to the following reasons:

1. ITC availed on the basis of invoice or debit note or any other document issued by the person who is not in the existence or not conducted any business from the place for which registration has not been obtained.
2. ITC availed without being the receipt of goods or services or both.
3. ITC availed on the basis of invoice or debit note or any other document, tax charged in respect of which had not been paid to the government account.
4. The registered person availing ITC is not in possession of a valid tax invoice or debit note or any other document.

Then such a tax officer can restrict the debit of account from an amount equivalent to such credit in electronic credit ledger for payment of any liability or for claim of refund of any unutilized amount.

However, such restriction shall be removed where such officer is being satisfied that such conditions has no longer been exist.

Further, such restriction will be ceased to have effect after the expiry of 1 year from the date of imposing such restriction.

E Invoicing for B2B Invoices

Effective Date: 1 April 2020

Government vide its notification dated 13 December 2019 has notified the class of registered person, whose aggregate turnover in a financial year exceeds INR 100 Crore, shall be required to generate e-invoice in respect of a supply made to a registered person.

E Invoicing for B2C Invoices

Effective Date: 1 April 2020

Government vide its notification dated 13 December 2019 has notified the class of registered person, whose aggregate turnover in a financial year exceeds INR 500 Crore, shall required to have Quick Response (QR) Code on the invoices in respect of a supply made to an unregistered person.

Direct Tax

INCOME TAX

CBDT notifies Rules for making PAN inoperative for any default in linking it with Aadhaar

Earlier the CBDT has extended the last date for linking of PAN with Aadhaar from December 31, 2019 to March 31, 2020. Now the CBDT has prescribed the Rules for making PAN inoperative of those persons who failed to intimate their Aadhaar Number on or before March 31, 2020. It may be noted here that any failure to intimate Aadhaar would not make PAN invalid but it would make it inoperative only for a temporary period of time till such Aadhaar Number is intimated. Thus, PAN would become operative again when such persons intimate their Aadhaar. - NOTIFICATION G.S.R. 112(E) [NO.11/2020/F.NO. 370149/166/2019-TPL], DATED 13-2-2020.

CBDT allows application for condonation of delay in filing ITR of trust for AY 2016-17, 2017-18 and 2018-19

The CBDT has issued circulars authorizing the CIT to admit belated applications for the accumulation of income of trust [in Form 9A and Form 10] to be utilized in future years if there is short-fall in the utilization of 85% of receipts. CIT to decide on merit the condonation of delay u/s 119(2)(b) of the Income-tax Act, 1961 (Act). However, in those cases where the Income-tax Returns have also been filed beyond the due date, the condonation of delay in filing of Form 9A & Form 10 by the Commissioners is not of any help to the assessee.

Accordingly, now the CBDT has decided that where the application for condonation of delay in filing Form 9A and Form 10 has been filed, and the ITR has been filed on or before 31st March of the respective assessment years i.e. Assessment Years 2016-17, 2017-18 and 2018-19, the CIT (Exemptions) are authorised, to admit such belated applications for condonation of delay in filing Return of Income and decide on merit. -CIRCULAR NO. 6/2020, dated 19-02-2020.

Discount offered for the supply of mobiles can't be treated as 'Commission' in absence of principal-agent relationship

Where Nokia India Private Limited has entered into an agreement for supply of cellular mobile phones with HCL and from this agreement, it was evident that relationship between both was that of principal to principal and not that of principal to agent; discount which was offered to distributors was given for promotion of sales and there was absence of a principal-agent relationship, thus, benefit extended to distributors could not be treated as commission liable for withholding tax under section 194H. - **Nokia India (P.) Ltd. Vs. Deputy CIT [2020] 114 taxmann.com 442 (Delhi - Trib.)**.

No writ before the High Court where a similar issue was already pending before CIT(A) in subsequent year

In the case of the assessee, being a public charitable trust, reassessment proceedings were initiated on the ground that it did not offer anonymous cash donations to tax u/s 115BBC. Such trust has challenged the validity of said reassessment proceedings by filing a writ petition before the High Court.

The Apex Court has held that it would not be appropriate to exercise jurisdiction under article 226 as a similar issue was already pending before Commissioner (Appeals) for subsequent assessment year.-**Shri Saibaba Sansthan Trust (Shirdi) Vs. Union of India [2020] 114 taxmann.com 489 (SC).**

Provision made for leave encashment on actuarial valuation could not be added back for computing book profit u/s 115JB

Provision made for leave encashment on an actuarial basis, being in nature of ascertained liability, could not be added back for purpose of determining 'book profit' under section 115JB - **Caprihans India Ltd. Vs. Deputy CIT [2020] 114 taxmann.com 538 (Mumbai - Trib.)**

Audit & Risk

Report on Other Legal and Regulatory Requirements in Auditor's Report

Companies (Auditor's Report) Order, 2020

Ministry of Corporate Affairs has notified Companies (Auditor's Report) Order, 2020 on 25th February 2020. This order shall be effective from the date of publication in Official Gazette and shall be applicable on every public company, subsidiary and holding company of public company, foreign company and private company having a paid up capital and reserves and surplus more than one crore rupees as on the balance sheet date or which have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year or which have a total revenue as disclosed in Scheduled III to the Companies Act (including revenue from discontinuing operations) exceeding ten crore rupees during the financial year as per the financial statements.

In CARO 2020, auditor is required to report on 21 points whereas in previous CARO 2016 had 16 points. This order is available on http://www.mca.gov.in/Ministry/pdf/Orders_25022020.pdf

Guidance Note on Audit of Bank

Exposure Draft of Guidance Note on Audit of Banks (2020 Edition)

Auditing and Assurance Standards Board (AASB) of the ICAI brings out the publication "Guidance Note on Audit of Banks" to provide guidance to the members carrying out audits of banks and bank branches.

This year also, the AASB is in the process of bringing out the Guidance Note on Audit of Banks 2020 edition. It may be noted that this year, the Guidance Note contains two sections i.e., Section A - Statutory Central Audit, Section B - Bank Branch Audit.

However, in the earlier edition of Guidance Note on Audit of Banks (i.e. in 2019 edition) contains three sections i.e., Section A - Statutory Central Audit, Section B – Foreign Exchange Transactions and Integrated Treasury and Section C - Bank Branch Audit.

Exposure Draft of Guidance Note on Audit of Banks, 2020 edition has been issued by the AASB and comments can be offered on this draft by **17th February 2020**.

International Accounting Standard

Review of the IFRS for SMEs Standard

The International Accounting Standards Board (IASB) has asked for views on its approach to updating the IFRS for SMEs Standard—the simplified accounting standard for small and medium-sized entities.

As defined in IFRS for SMEs, the Small and medium-sized entities are entities that:

- (a) do not have **public accountability**; and
- (b) publish **general purpose financial statements** for external users

The IFRS for SMEs Standard is required or permitted in more than 80 countries and is used by millions of companies.

The objective of the consultation is to seek views on whether and how to align the IFRS for SMEs Standard with full IFRS Standards, which are the Standards developed for publicly accountable entities and currently required in more than 140 jurisdictions.

The Request for Information asks for views on different approaches to updating the IFRS for SMEs Standard, as well as views on how the Standard could be aligned with newer IFRS Standards, such as IFRS 9 Financial Instruments, IFRS 15 Revenue from Contracts with Customers and IFRS 16 *Leases*.

Responses to this Request for Information can be given until **27th July 2020**.

Regulations

Companies (Incorporation) Rules, 2014

Amendment in Companies (Incorporation) Rules 2014 has been notified by the Ministry of Corporate Affairs on 18th February, 2020. The changes have been made effective w.e.f. 23rd Feb 2020.

Rule 9 of the said rules have been substituted by removing the facility of RUN for reservation of name by new Companies. RUN shall only be allowed to be used by existing Companies for a change of name. All new name reservations for new companies as well as new incorporations shall be applied through SPICe+ only.

Further, the amendment has been brought to replace Form No INC-32 (SPICe) with SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32), AGILE with AGILE-PRO.

SPICe+ Web form is a post-login service and existing registered users would need to login into their account using their credentials.

In addition to name reservation, SPICe+ offers the following services viz. (i) Incorporation (ii) DIN allotment (iii) Mandatory issue of PAN (iv) Mandatory issue of TAN (v) Mandatory issue of EPFO registration (vi) Mandatory issue of ESIC registration (vii) Mandatory issue of Profession Tax registration (Maharashtra) (viii) Mandatory Opening of Bank Account for the Company and (ix) Allotment of GSTIN (if so applied for).

Presently Punjab National Bank has been integrated with SPICe+ for opening a Bank account.

Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2020

MCA has vide its notification dated 3rd February 2020 introduced Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2020.

These rules have introduced a mechanism to carry out takeover offers in case of unlisted Companies as per Section 230 (11) of Companies Act, 2013.

As per these rules, a member can make an application for arrangement in Form NCLT-1, for the purpose of takeover offer, when such member along with any other member holds not less than 75% of the shares in the company, and wish to acquire any part of the remaining shares of the company. (Shares have being explained to include securities having voting rights.)

Application for such takeover offers shall be accompanied by report of registered valuer which shall be done after considering the highest price paid by any person or group of persons for acquisition of shares during the last twelve months. Further fair price of shares of the company shall be determined by the registered valuer after taking into account valuation parameters including return on net worth, book value of shares, earning per share, price earning multiple vis-d-vis the industry average, and such other parameters as are customary for valuation of shares of such companies.

Further, majority members (holding 75% or more voting rights) shall be required to mention details of separate bank account wherein at least 50% of the total consideration of offer shall be deposited.

The notification has prescribed a fee of INR 5,000/- for making any application for compromises, arrangements and amalgamations under Companies Act.

These rules have opened the gates for the majority shareholders of unlisted companies to buy out the minority shareholders.

Limited Liability Act, 2008

MCA has vide its notification dated 30th January, 2020 have directed that the provisions of section 460 of the Companies Act, 2013 shall apply to a limited liability partnership w.e.f. date of this notification.

By virtue of this notification, LLPs shall now be required to condone the delay in filing any document with Registrar/Central Government beyond the specified timeline.

Therefore, the LLPs will now have to take to strive for timely filing else the same would not only invite additional fees but also condonation of delay.

MCA has invited Public Comments on Draft Competition (Amendment) Bill, 2020

Ministry of Corporate Affairs had constituted a Competition Law Review Committee (CLRC) in October 2018 to review and recommend a robust Competition regime by taking the inputs of key stakeholders, and suggest changes in both the substantive and procedural aspects of the law. Accordingly, a Competition (Amendment) Bill, 2020 has been drafted for carrying out amendments in the Competition Act, 2002.

A copy of same is available at <http://feedapp.mca.gov.in/>

Employees' State Insurance Corporation

Employees State Insurance Corporation has laid draft Employees' State Insurance (General) Amendment Regulations, 2020 to amend the Employees' State Insurance (General) Regulation, 1950 for information of all persons likely to be affected thereby. Further, a notice is given that the said draft regulations will be taken into consideration after expiry of a period of Thirty days from the date on which the Official Gazette i.e. 11th Feb, 2020. The amendments majorly relates to the claiming of maternity benefit by mother whether commissioning mother Insured Women/Adoptive Mother.

Further, as per clarification issued by ESI Corporation dated 28.01.2020 wherein they have clarified that ESIC officials are allowed to demand records for conducting test inspection/ inspection for period upto 5 years only. As the contribution cannot be determined for a period beyond 5 years, the officials shall not ask for any records beyond 5 years from employer.

Banning of Unregulated Deposit Schemes Rules, 2020

Ministry of Finance has vide notification dated 12th February, 2020 notified Banning of Unregulated Deposit Schemes Rules, 2020.

The major highlighted of these rules is the rights and duties of Competent Authority. Competent Authority will be an authority appointed by the appropriate Government under section 7 of the Act.

These rules lay down the information and particulars that competent authority will consider for provisionally attaching the property of the deposit taker.

Competent Authority has been further authorized in respect of the following:

- to serve the order of provisions attachment of property,
- to take possession of the immovable property,
- taking actual physical possession of movable property in his custody,
- to maintain record of the property provisionally attached,
- to assess the assets and the liabilities of the deposit taker and prepare a complete record of depositors from whom the deposit taker has collected deposits pursuant to an Unregulated Deposit Scheme,
- to appoint a valuer for the purposes of assessing the assets and liabilities of the deposit taker,
- to sell the property of perishable nature keeping in mind the best interest of the depositors.

The rules further provide that following information shall be accessible to the public via portal operated by designated authority:

- list of deposit takers operating in India, the extent and areas of their operation;
- any action taken under any law for the time being in force against any deposit taker for collection of deposits; and
- updates regarding proceedings for restitution of depositors under Chapter V of the Act.

Additionally, every deposit taker commencing business will be required to submit an intimation in the Form annexed to these rules to the designated authority, within a period of thirty days from the commencement of the business. Intimation of change in particulars is also required to be given within thirty days from the date of such change.

Further, duties, powers and inter-relationship of competent authority, designated court, officer-in-charge of a police station and appropriate government have been laid in these rules.

TAX CALENDER																															
March-2020																															
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue															
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 No.	
7	Income Tax	- Last date of online payment of Tax deducted at source/Tax collected at source for the month of February, 2020																												Challan 281	
7	FEMA	- Last date of reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA																												ECB-2	
10	GST	- Last date of filing Form GSTR 7 for the month of February, 2020 (to be filled 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 February, 2020 (to be filled by the person required to deduct TDS under GST)																												GSTR-8	
11	GST	- Last date of filing Form GSTR 1 for the month of February, 2020																												GSTR-1	
13	GST	- Last date of filing Form GSTR 6 for the month of February, 2020 (to be filled by input service distributor)																												GSTR-6	
15	Income Tax	- Final installment of Advance tax for the Assessment Year 2020-21																												Challan 280	
15	Income Tax	- Due date for issue of TDS Certificate for tax deducted under section 194-IA and IB in the month of January, 2020																												Form 16B & 16C	
15	Provident Fund	- Last date of online payment of provident fund for the month of February, 2020																												PF Challan	
15	ESI	- Last date of online payment of ESI fund for the month of February, 2020																												ESI Challan	
20	GST	- Last date of filing Form GSTR 3B and payment of GST for the month of February, 2020																												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 February, 2020 (to be filled by non-resident person)																												GSTR-5 & 5A	
25	Provident Fund	-Provident Fund return filing for February, 2020 (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 and IB in the month of February, 2020																													Form 26QB & 26QC
31	GST	- Last date of filing Form GSTR 9(Comprehensive annual return) for the FY 18-19																												GSTR-9	
31	GST	- Last date of filing Form GSTR 9C(Reconciliation statement) for the FY 18-19																												GSTR-9C	

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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