

NEWSLETTER

May 2022

J P Chawla & Co. LLP

Chartered Accountants

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



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Indian Economy is going strong, though there are fall in Indices and fluctuation in Indian currency vs global currencies, political disturbances, and global issues, but despite that the local business sentiment remain strong and robust.

India has risen the most among Asian economies, climbing from 43rd to 37th place on the Institute for Management Development's annual World Competitiveness Index, owing mostly to improved economic performance, though inflows of foreign direct investment into India have declined by US\$ 19 billion, bringing it to US\$ 45 billion in 2021, putting it in seventh place internationally after the United States, China, Hong Kong, Singapore, Canada, and Brazil. Despite its downturn, India remains one of the world's top 10 economies.

Monthly GST collections have topped Rs. 1.40 lakh crore (US\$ 18.08 billion) for only the fourth time since the Goods and Services Tax (GST) was established, and for the third month in a row since March 2022.

In direct taxes, the Central Government has inserted the new rule 114BA and 114BB which specifies the quoting of PAN by specified person for the specified transactions such as :Cash deposit aggregating INR 20 lakhs or more in a financial year in one or more account with a bank including co-operative bank or Post office, Cash withdrawal aggregating INR 20 lakhs or more in a financial year in one or more account with a bank including co-operative bank or Post office and opening of current account or cash credit account with a bank including co-operative bank or Post office.

In Indirect taxes, the GST department had issued the instructions for the officers and the authorities who are conducting search or inspection or investigation to follow the due legal process of issuance of notice and subsequent confirmation of demand by issuance of adjudication order. It has been noticed under many instances that the officer who are conducting search or inspection or investigation have alleged use of force and coercion for making recovery even after voluntary deposition of tax through DRC-03 by the taxpayer. Therefore, it has been clarified that there is no bar on the taxpayer for making voluntary payment on the basis of ascertainment of the liability on non-payment/short payment of taxes before or at any stage of such proceedings.

In regulations, the Ministry of Corporate Affairs ('MCA') vide its notification dated May 4, 2022, has amended the existing Companies (Share Capital and Debentures) rules and notified Companies (Share Capital and Debentures) Amendment Rules, 2022. The amendment relates to the insertion of a specific declaration in Form SH-4 (Instrument of Transfer) with respect to the requirement of Government Approval by the transferee prior to the transfer of shares under Foreign Exchange Management (Non-Debt Instruments) Rules, 2019.

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
Director & CEO
New Delhi

India climbed to 37th Place on IMD's World Competitiveness Index which happened due to improved economic performance. Further, according to the United Nations, India will remain among the top ten global economies of the world, despite its decline. India made a new world record by constructing 75 kilometres of continuous Bituminous Concrete in a Single Lane.

On the IMD's World Competitiveness Index, India has risen six places to 37th place.

India has risen the most among Asian economies, climbing from 43rd to 37th place on the Institute for Management Development's annual World Competitiveness Index, owing mostly to improved economic performance.

India will be a \$5 trillion economy by FY27. 'Not a difficult target,' says CEA.

India is in a better position than other growing economies, said Mr Nageswaran at a UNDP India event. He also predicted that the country's economy will grow to US\$ 5 trillion by 2026-27 and US\$ 10 trillion by 2033-34.

In India, Google has launched a startup incubator for women-led businesses.

Google has launched its first accelerator program for women-led businesses, in India. Its goal is to support women-led entrepreneurs in scaling their businesses by connecting them with the right mentors and a network of other startups, as well as assisting them in obtaining funds and employing the greatest tech talent.

Despite a drop, India will be among the top ten global economies for FDI in 2021, according to the United Nations.

Inflows of foreign direct investment into India have declined by US\$ 19 billion, bringing it to US\$ 45 billion in 2021, putting it in seventh place internationally after the United States, China, Hong Kong, Singapore, Canada, and Brazil. Despite its downturn, India remains one of the world's top 10 economies.

EASE 5.0 'Common Reforms Agenda' for PSBs is launched by Nirmala Sitharaman.

To adapt to changing consumer wants, changing competition, and the technology environment, PSBs will continue to invest in new-age capabilities and deepen existing changes under EASE 5.0. EASE 5.0 will focus on small companies and agriculture, with an emphasis on digital customer experience and integrated and inclusive banking.

Simultaneously, each PSB will construct a three-year strategic roadmap that is unique to them. It will contain EASE 5.0-related strategic initiatives. Business growth, profitability, risk, customer service, operations, and capability development will all be covered by the programmes.

The National Highways Authority of India (NHAI) has set a new global record.

According to Mr Gadkari, the NHAI set a world record, certified by Guinness World Records, by constructing 75 kilometers of continuous Bituminous Concrete in a Single Lane on the part of NH-53 between Amravati and Akola.

To strengthen defence ties, India and Vietnam have signed a military logistics support contract and a vision document.

On June 8, India and Vietnam inked a Vision Agreement aimed at expanding the "scope and scale" of defence ties by 2030, as well as a logistics support agreement allowing the two nations' forces to utilise each other's facilities for supply repair and replenishment.

In the next five years, electric vehicles will increase auto spending by Rs 70,630 crore.

India, the world's fifth - biggest car market, is expected to receive one of the largest capital investment pushes ever to fuel the switch from internal combustion engines to electric motors and batteries as part of a green drive, according to data gathered from corporate announcements.

In May, the UPI reached a milestone of ten trillion transactions.

According to the National Payments Corporation of India (NPCI), UPI, the country's own payment system, completed nearly 6 billion payments in May, surpassing the Rs. 10 trillion (US\$ 128.95 billion) record. Both global and indigenous fintech companies have been important drivers of UPI acceptance among end-users in India, according to the survey.

According to research, India will have 214 million hyperlocal e-commerce shoppers by the end of 2022.

According to the 'Digital Commerce in India-Hyperlocal Commerce' analysis by WATConsult, Dentsu India's digital agency, India will have 214 million hyperlocal e-commerce shoppers by the end of 2022, up from 141 million.

Customers of hyperlocal commerce make up 48% of all e-commerce users in India, with a large increase in consumers in metro cities and beyond.

GST receipts in May were Rs.1.40 lakh crore, up 44 per cent year on year.

Monthly GST collections have topped Rs. 1.40 lakh crore (US\$ 18.08 billion) for only the fourth time since the Goods and Services Tax (GST) was established, and for the third month in a row since March 2022.

In May, exports increased by 20.55 per cent to \$38.94 billion dollars, while the trade deficit reached a new high of \$24.29 billion dollars.

India's product exports climbed by 20.55 per cent to US\$ 38.94 billion in May, according to government numbers released on June 15, while the trade imbalance reached a new high of US\$ 24.29 billion. The trade imbalance was \$6.53 billion in the same month the previous year.

In May 2022, imports grew by 62 per cent to US\$ 63.22 billion. Total exports increased by roughly 25% to US\$ 78.72 billion in April-May FY23, while imports jumped by 45.42 per cent to US\$ 123.41 billion.

Indirect Tax

Extension of Due Dates of Form GSTR-3B

Notification No. 05/2022-Central Tax

Due to some technical glitches, the data was not correctly reflected in GSTR-2B. The taxpayer was faced many problems in reconciling the data. Government in order to give some relief to the taxpayers had extended the due date of filling GSTR-3B for the month of April 2022 from 20th May 2022 to 24th May 2022.

The above extension of due date was also resulting in extension of due date of payment of tax which goes along with the due date of GSTR-3B.

Notification No. 06/2022-Central Tax

Due to such technical glitches the government had also extends the due date of making payment of taxes under Form GST PMT-06 by the taxpayers who are under QRMP scheme from 25th May 2022 to 27th May 2022.

Withdrawal of Advisory on 17th May 2022

Due to some technical glitches the GSTN had issued an advisory on 15 May 2022 that taxpayer who are interested in filing GSTR-3B are requested to file the return on self-assessment basis using details available in GSTR-2A. However, on 17 May 2022 the said advisory stand withdrawn.

Notification No. 07/2022-Central Tax

Government wide this notification had extended the due date of filling the Form GSTR-4 being return filed by the composite dealer for the financial year 2021-22 from 30th April 2022 to 30th June 2022. The extension is given by the way of waiving the late fees for the period from 1st day of May 2022 to 30th day of June, 2022.

Deposit of tax during the course of search, inspection or investigation

Instruction No. 01/2022-23[GST-INV]

The department had issued the instructions for the officers and the authorities who are conducting search or inspection or investigation to follow the due legal process of issuance of notice and subsequent confirmation of demand by issuance of adjudication order. No recovery should be made unless the amount becomes payable in pursuance of order passed by the adjudicating authority or otherwise becomes payable under the provision of CGST Act.

It has been noticed under many instances that the officer who are conducting search or inspection or investigation have alleged use of force and coercion for making Recovery even after voluntary deposition of tax through DRC-03 by the taxpayer. Therefore, it has been clarified that there is no bar on the taxpayer for making voluntary payment on the basis of ascertainment of the liability on non-payment/short payment of taxes before or at any stage of such proceedings.

It has also been advised to the Pr. Chief Commissioner, Chief Commissioner, CGST Zone and Director of General, DGGI to take strict disciplinary action against the tax officer against whom any such complaint is received from the taxpayer.

GST Council recommendations are not binding on Union and State Government

Supreme Court Order in the case of Mohit Minerals [TS-246-SC-2022-GST]

The Apex Court's judgment in Mohit Minerals [TS-246-SC-2022-GST], striking down the IGST levy on ocean freight in a CIF contract is a significant verdict outlining the powers of federal units in a democratic set up. The landmark verdict of SC delivered by a 3-Judge bench, headed by Justice Dhananjaya Y Chandrachud holding that recommendation of Council would only have a persuasive value has created a buzz amongst the tax fraternity since its pronouncement yesterday and leads to the question whether GST can still be perceived as 'one nation one tax' considering the important remark made by Apex Court rendering GST Council's decision as not "binding" on Union and State Governments.

Direct Tax

Amendment in Rule 44E

The CBDT has amended the rule 44E which specifies the procedure of filing the application for advance ruling. The CBDT has deleted the requirement of filing the application in quadruplicate and specified the procedure of verification of filing of the application. Further, the CBDT has also substituted the Forms “Form 34C to Form 34EA”

- [Notification No. 49 /2022]

Insert of New Rule 2DCA

The CBDT has inserted a new rule 2DCA which specifies the method for the computation of minimum investment and exempt income for the purpose of Section 10(23FE) of Income Tax Act, 1961. Further, the CBDT has substituted the Form 10BBB, Form 10BBC and 10BBD.

- [Notification No. 50/2022]

Amendment in Various Income Tax Forms

The CBDT has amended the various sections of the following Income Tax Forms – Form 3CF, Form 10A, Form 10AB, Form 10BD, Form 10BE.

- [Notification No. 51/2022]

Insert of New Rule 44FA

The CBDT has inserted new Rule 44FA which specifies the form and manner of filing an appeal to the High Court against an order passed or ruling pronounced by the Board for Advance Ruling

- [Notification No. 57/2022]

Insert of New Rule 114BA and 114BB

The Central Government has inserted the new rule 114BA and 114BB which specifies the quoting of PAN by specified person for the specified transactions.

Rule 114BA specifies the transactions for the purpose of Section 139A(1)(vii). Following are the transactions:

- a) Cash deposit aggregating INR 20 lakhs or more in a financial year in one or more account with a bank including co-operative bank or Post office.
- b) Cash withdrawal aggregating INR 20 lakhs or more in a financial year in one or more account with a bank including co-operative bank or Post office.
- c) Opening of current account or cash credit account with a bank including co-operative bank or Post office.
- d) The aggregate in one or more saving account is INR 50 lakhs or more.

Rule 114BB specifies the quoting of PAN or Aadhaar Number by the specified person for specified transactions.

S.no.	Transaction	Person
1.	Cash deposit aggregating INR 20 lakhs or more in a financial year with a) Bank including co-operative bank b) Post Office	a) Bank b) Post Master General
2.	Cash withdrawal aggregating INR 20 lakhs or more in a financial year with a) Bank including co-operative bank b) Post Office	a) Bank b) Post Master General
3.	Opening of current account or cash credit account with a) Bank including co-operative bank b) Post Office	a) Bank b) Post Master General

Audit and Assurance

Effective Date of applicability of Standard on Assurance Engagements (SAE) 3410 “Assurance Engagements on Greenhouse Gas Statements”

The Council, at its 410th meeting, held on March 24-25, 2022, considered the matter relating to effective date of applicability of Standard on Assurance Engagements (SAE) 3410 “Assurance Engagements on Greenhouse Gas Statements” issued by Sustainability Reporting Standards Board (SRSB) of The Institute of Chartered Accountants of India (ICAI). The Council decided that the effective date of application of SAE 3410 shall be as follows –

- (i) Voluntary basis for assurance reports covering periods ending on March 31, 2023
- (ii) Mandatory basis for assurance reports covering periods ending on or after March 31, 2024

SAE 3410 has been issued in February 2021, to strengthen assurance frameworks for Non-Financial Information, equivalent to ISAE 3410 “Assurance Engagements on Greenhouse Gas Statements” issued by the IAASB of IFAC. SAE 3410 deals with assurance engagements to report on an entity’s Greenhouse Gas (GHG) statement. The objective of an engagement under SAE 3410 is to obtain either limited or reasonable assurance, as applicable, about whether the GHG statement is free from material misstatement, whether due to fraud or error. GHG statements are assured to enhance the reliability of the emissions information being reported on. The approach adopted in SAE 3410 requires the practitioner to select procedures appropriate to the circumstances of the engagement based on an assessment of risks of material misstatement.

Standard on Assurance Engagements (SAE) 3410 “Assurance Engagements on Greenhouse Gas Statements” is available at <https://resource.cdn.icai.org/62857srsb50843.pdf>

Peer Review Mandate - Roll Out - (Revised)

The Council at its 407th Meeting held from 7th – 9th January 2022 decided to mandate the Peer Review process for coverage of more firms under Peer Review process. An Announcement dated 12.02.2022 in this regard was posted on the website.

Certain aspects required revision to bring in more clarity e.g., the time limit for compliance of the mandate, qualifications of reviewer of listed entity auditors, etc. The same have been addressed by the Council at its 410th Meeting held on 24th – 25th March 2022. It was clarified that holding a valid Peer Review certificate by Practice Units (referred to as ‘firms’ in the Announcement dated 12.02.2022) should be a prerequisite for undertaking audit of all entities falling under phase I; II; III and IV of the mandate from respective dates of mandate becoming operative.

Regulations

MCA

Amendment in companies (Share Capital and Debentures) Rules, 2014

The Ministry of Corporate Affairs ('MCA') vide its notification dated May 4, 2022, has amended the existing Companies (Share Capital and Debentures) Rules and notified Companies (Share Capital and Debentures) Amendment Rules, 2022. The amendment relates to the insertion of a specific declaration in Form SH-4 (Instrument of Transfer) with respect to the requirement of Government Approval by the transferee prior to the transfer of shares under Foreign Exchange Management (Non-Debt Instruments) Rules, 2019.

Companies (Incorporation) Second Amendment Rules, 2022

The MCA vide its notification dated May 20, 2022, has revised the format of INC-9 and Part-B of INC-32 (SPICe+). The amendment in INC-9 pertains to the insertion of a declaration by the subscribers and first directors whether they are required to obtain government approval under Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 prior to subscription of shares. Further, with respect to INC-32 (SPICe+), the notification relates to the procurement of security clearance from the Ministry of Home Affairs, Government of India, if the proposed Director is a national of a country that shares land border with India.

Amendment in companies (Prospectus and allotment of Securities Rules, 2014)

The MCA vide its notification dated May 5, 2022 amended the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2022 by inserting a proviso in sub-rule (1) of rule 14 regarding not allowing any offer or invitation of private placement being made to a body corporate incorporated in, or national of, a country sharing land border with India unless the same is accompanied with a government approval under Foreign Exchange Management (Non-Debt Instruments) Rules, 2019.

Extension of time period for conducting AGM and EGM through VC or OAVM

MCA through its general circular no. 2/2022 has given relaxation to hold the Annual General Meeting electronically through VC or OAVM. The said relaxation is now valid till December 31, 2022. However, the same shall not be construed as conferment of any extension of time for holding AGM i.e. the Companies are required to adhere to the relevant timelines for holding the AGM.

Subsequent to the above relaxation, MCA vides its general circular no. 3/2022 has now also allowed companies to conduct their EGMs through VC or OAVM or transact items through postal ballot up to December 31, 2022.

Extension of Due date for Filing LLP Form 11

MCA through its general circular no. 04/2022 dated 27.05.2022 announced the extension in the due date for filing LLP Form 11 (Annual Return) for the Financial Year 2021-22 without paying additional fees up to 30th June 2022. LLP Form 11 must be filed every year by all Limited Liability Partnerships (LLPs) registered in India. The current article briefs the extension so provided.

Extension of timeline for event-based form in case of LLP

Given the representation received from various stakeholders and considering the transition from Version-2 of MCA-21 to version-3, the MCA has extended timelines for filing all the event-based LLP E-forms without paying an additional fee until June 30, 2022. The extension is provided for all those forms which are due for filing on and after May 25, 2022, to May 31, 2022.

MSME

Extension of timeline for existing MESE's to migrate from its existing portal "Udyog Aadhar Registration" to new portal "Udyam Registration"

The Ministry of Micro, Small and Medium Enterprises (MSME) vide notification dated 6th May 2022 extended the validity of Udyog Aadhaar Memorandum (UAM) registrations from March 31, 2022 to June 31 2022. The Businesses with a UAM licence will now get time till June to migrate to the Udyam registration. As a result of the extension, they will benefit from various government incentives and schemes, including priority sector lending, until June.

SEBI

Simplification of procedure and standardization of formats of documents for issuance of duplicate securities certificates (May 25, 2022)

To make the issuance of duplicate securities more efficient and investor-friendly, the Securities and Exchange Board of India, vide its notification dated May 25, 2022, has simplified the procedure and documentation requirements for issuance of duplicate securities. With regard to documents required to be submitted by a security holder while requesting for issuance of duplicate securities certificates, a copy of the FIR, including e-FIR, necessarily having details of the securities, folio number, distinctive number range and certificate numbers will be required. In addition, issuance of advertisements regarding loss of securities in a widely circulated newspaper and submission of Affidavit and Indemnity bond in a prescribed format will also be required. Further, provided that duplicate securities shall be issued in dematerialized mode only as mandated vide SEBI Circular dated January 25, 2022.

Simplification of procedure and standardization of formats of documents for transmission of securities

The Securities and Exchange Board of India, vide its notification dated May 18, 2022, has revised documentation requirements in case of transmission of securities are as specified below; -

- a) Where the securities are held in a single name with a nomination, the nominee shall be informed about the procedure to be followed for the claim on the receipt of the intimation of death of the security holder
- b) SEBI prescribes various formats and documentation for all transmission matters including the requirement of Will.

Streamlining the Process of Rights Issue

The Securities and Exchange Board of India, vide its notification dated May 19, 2022, has streamlined the rights issue process and provided that the trading in Right Entitlements (REs) on the secondary market platform of stock exchanges commence along with the opening of the right issue and has to be closed at least three working days prior to the closure of the rights issue. Earlier, the requirement was four days. SEBI received representation from the market that in case there are trading holidays between the last date of REs trading date and issue closure, the provision of the minimum gap of four days may not always ensure that there are adequate days for settlement, as minimum 2 working days are required for the settlement of REs traded on last day of REs trading window. REs traded on the exchange platform have a T+2 rolling settlement

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