

NEWSLETTER

Volume VII – 2022-23

J P Chawla & Co. LLP

Chartered Accountants

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



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India leapt forward from the 10th position to the fifth-largest economy even when big economies of the world struggled and faced all-time high inflation and unemployment. However, the economic and policy decisions taken in the past eight years have made it possible for India to tide over the crisis.

During the upcoming winter session of budget, the government will put forward laws to decriminalize specific sections to promote conducting business in India.

Further, India boasts 1,132 of the world's 25,490 centi-millionaires, outnumbering bigger economies and is set to overtake China by 2032.

In Indirect Taxes, GST authorities have given out detailed advisory guidelines for filing GST forms and TRAN forms for transitional credit.

In Direct Taxes, the CBDT has extended the deadline for furnishing TDS returns in Form 26Q. Further, the Supreme Court has given out a landmark judgement on Charitable Trust Exemptions.

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
Director & CEO
New Delhi

India leapt forward from the 10th position to the fifth-largest economy even when big economies of the world struggled and faced all-time high inflation and unemployment. However, India could tide over the pandemic crisis due to the economic and policy decisions taken in the past eight years.

India's auto market proved itself as an outlier

As per S&P Global Mobility, despite single to double-digit plummeting digits in other major auto markets, India's auto market is the only one globally on the growth path.

Promotion of laws, conducive to Doing Business in India, in the upcoming bill

During the upcoming winter session, the government will put forward laws to decriminalize specific sections to promote conducting business in India, according to Mr. Piyush Goel.

India to be World's third-largest economy by FY28

As per the World Economic Forum of IMF (International Monetary Fund), India's GDP growth will surpass that of Japan and move up to the third-largest by FY28.

Exports rise 4.82% to US\$ 35.45 billion in September

According to figures issued by the Commerce Ministry on Friday, the nation's exports increased by 4.82% to US\$ 35.45 billion in September despite an increase in the trade deficit to US\$ 25.71 billion.

India aims to increase its share in global exports by 2047

Under the banner India@2047, the ministry of commerce and industry has set numerous goals. The country plans to increase its export share to 3% from 2.1% by 2047 and 10% by 2047, promoting a hundred Indian brands as global champions.

India 3rd in the list of centi-millionaires, to overtake China by 2032

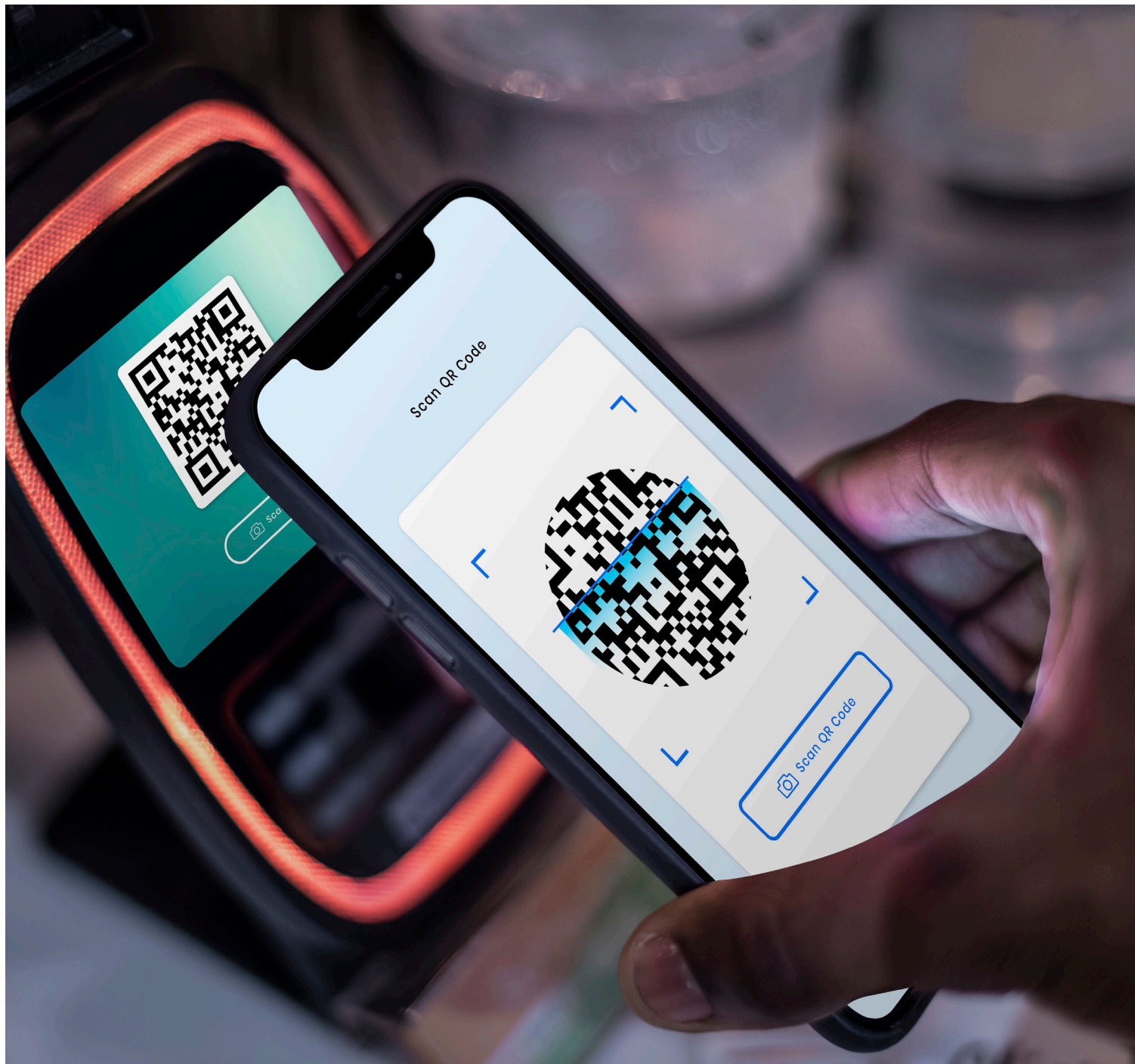
India ranks third in the world's first-ever global research on the rise of centi-millionaires – individuals with assets worth more than Rs. 830 crores (US\$ 100 million), according to a new survey. India boasts 1,132 of the world's 25,490 centi-millionaires, outnumbering countries such as the UK, Russia, and Switzerland in a rapidly increasing and powerful class of super-rich IT giants, financiers, multinational CEOs, and heirs.

Government to develop 50 districts as export hubs

The Union Budget is expected to announce an Rs. 2500 crores (US\$ 303.14 million) scheme to develop 50 districts as export hubs. The programme will assist domestic producers in these districts in scaling up production and finding potential buyers outside of India.

UPI processes the highest number of transactions since its inception

Due to festive season spending, India's major digital payments platform, UPI, processed over 7 billion transactions in the month of October.



Indirect Tax

Extension of the due date for filing Form GSTR-3B for September-2022

Notification No. 21/2022 Central Tax Dated 21st October 2022

Due to some technical glitches the portal was not working properly on 20th October 2022 which is the last date of filing GSTR-3B for the month of September 2022. Therefore, CBIC has extended the due date for filing Form GSTR-3B for the month of September 2022 till 21st October 2022 for all the taxpayers who files monthly return.

Advisory on filing TRAN-1/2 Forms to claim Transitional Credit

On direction of the Hon'ble Supreme Court of India, GSTIN allows the aggrieved taxpayers to claim transitional input tax credit on GST portal who could not claim earlier. The facility to file TRAN-1/2 and revise the earlier filed Form is available from 01st October 2022 till 30th November 2022.

Now the filing Form TRAN-1/2 process is different from the existing process available in the Financial Year 2017-2018. GSTIN has issued a detailed advisory and step by step guide to ease of filing Form TRAN-1/2 on GST portal. The gist of the advisory is below:

- a. The status of TRAN forms shall be visible as "Not filed" for the all the taxpayers.
- b. The option of filing or revising TRAN forms is a one- time opportunity for all the taxpayers.
- c. Input Tax Credit will reflect in Electronic Credit Ledger post verification by the jurisdictional officer.
- d. The taxpayers can navigate to TRAN-1 post logging in to common portal. Services > Returns > Transition Form > TRAN-1
- e. The taxpayers can navigate to TRAN-2 post logging in to common portal. Services > Returns > Transition Form > TRAN-2

Advisory on sequential filing of Form GSTR-1 before GSTR-3B

With reference to the Notification No. 18/2022- Central Tax, dated 28th September 2022 with effect from 01st October 2022 a taxpayer shall not be allowed to file GSTR-1 if the same is not filed for preceding month and GSTR-3B shall also not be allowed to file if GSTR-1 of same tax period is not filed.

These changes are made available on gst portal from 01st November 2022. From October 2022 tax period onwards, filing GSTR-1 of previous period will be mandatory for filing current period GSTR-1.

Illustration: Filing of October 2022 period GSTR-1 will be mandatory before filing GSTR-1 of November 2022 period.

Further, from October 2022 tax period onwards, filing of GSTR-1 will also be mandatory before filing GSTR-3B.

Illustration: Taxpayer will not be allowed to file GSTR-3B for October 2022 period if GSTR-1 of October 2022 period is not filed.

Advisory on mandatory mentioning of HSN code in GSTR-1

From 01st November 2022 it would be mandatory for taxpayers having up to Rs. 5 Crore turnover to report four-digit HSN code in their GSTR-1 return.

In case where the wrong HSN code is mentioned in GSTR-1 an alert message will pop up. However, taxpayer will still be able to file GSTR-1 return.

Advisory on filing TRAN-1 for taxpayers from Daman and Diu & Ladakh

As per the issued advisory, taxpayers of above-mentioned region are advised to filed Form TRN-1/2 with the new allotted GSTIN. They are advised not to use existing GSTIN.

Jurisdictional officers of both regions are also advised to take a note of the issued advisory while processing the TRAN claims.



Direct Tax

Extension of time limit for furnishing TDS Return in Form 26Q

The CBDT has extended the time limit for furnishing TDS return in Form 26Q for quarter 2 from October 31st, 2022 to November 30th, 2022.

- [Circular No. 21/2022]

Supreme Court Judgement on Charitable Trust exemption

The Supreme court in the matter of Assistant Commissioner of Income Tax (Exemptions) v/s Ahmedabad Urban Development Authority clarified that an assessee engaged in advancing general public utility (“GPU”) cannot engage itself in any trade, commerce or business, or provide service in relation thereto for any consideration. However, in the course of achieving the object of general public utility, the concerned trust, society, or other such organization, can carry on trade, commerce or business or provide services in relation thereto for consideration, provided that (i) the activities of trade, commerce or business are connected to the achievement of its objects of GPU; and (ii) the receipt from such business or commercial activity or service in relation thereto, does not exceed the quantified limit i.e. 20% of total receipts of the previous year.

The charging of any amount towards consideration for (advancing general public utility), which is on cost-basis or nominally above cost, cannot be considered to be “trade, commerce, or business” or any services in relation thereto. It is only when the charges are markedly or significantly above the cost incurred by the assessee, that they would be considered as “cess, or fee, or any other consideration” towards “trade, commerce or business”. Further, Section 11(4A) must be interpreted harmoniously with Section 2(15), with which there is no conflict that the carrying out activity in the nature of trade, commerce or business, or service in relation to such activities, should be conducted in the course of achieving the GPU object, and the income, profit or surplus or gains must, therefore, be incidental. The requirement in Section 11(4A) of maintaining separate books of account is also in line with the necessity of demonstrating that the quantitative limit prescribed in the proviso to Section 2(15), has not been breached.

Further, in respect of trade promotion bodies or entities which are set up with the objects of purely advocating for, coordinating and assisting trading organisations, can be said to be involved in advancement of objects of general public utility. However, if such organisations provide additional services such as courses meant to skill personnel, providing private rental spaces in fairs or trade shows, consulting services, etc. then income or receipts from such activities, would be business or commercial in nature. In that event, the claim for tax exemption would have to be again subjected to the rigors of the proviso to Section 2(15) of the Income Tax Act, 1961.

As per the judgement of Supreme Court, it may be noted that the conclusions arrived at by way of this judgment, neither precludes any of the assessees (whether statutory, or non-statutory) advancing objects of general public utility, from claiming exemption, nor the taxing authorities from denying exemption, in the future, if the receipts of the relevant year exceed the quantitative limit. The assessing authorities must on a yearly basis, scrutinize the record to discern whether the nature of the assessee’s activities amount to “trade, commerce or business” based on its receipts and income (i.e., whether the amounts charged are on cost-basis, or significantly higher). If it is found that they are in the nature of “trade, commerce or business”, then it must be examined whether the quantified limit (as amended from time to time) in proviso to Section 2(15), has been breached, thus disentitling them to exemption.

-[TS-814-SC-2022]

Applicability of Supreme Court Judgement on Charitable Trust exemption

The supreme court in response to the application filed by Revenue has clarified that the judgement will apply for the assessment years in question, which were before this court and were decided wherever the appeals were decided against the revenue, they are to be treated as final. However, the reference to future application has to be understood in this context, which is that for the assessment years which this court was not called upon to decide, the concerned authorities will apply the law declared in the judgment, having regard to the facts of each such assessment year.

- [TS-846-SC-2022]



Audit and Assurance

Third edition of the IFRS for SMEs Accounting Standard

IFRS for SMEs Accounting Standards are applied for general purpose financial statements of small companies, primarily; small and medium-sized entities (SMEs), private entities and non-publicly accountable entities, which is required or permitted in 86 jurisdictions across the globe. This Standard is based on full IFRS with modifications to reflect the needs of users of SMEs' financial statements and cost-benefit considerations. It focuses on the information needs of lenders, creditors and other users of SME financial statements who are interested primarily in information about cash flows, liquidity and solvency.

In 2009, the International Accounting Standards Board (IASB) issued the first edition of International Financial Reporting Standard for Small and Medium-sized Entities (IFRS for SMEs Accounting Standards). The IASB maintains the SMEs Standards through periodic review and proposes amendments by publishing an omnibus exposure draft. In developing these exposure drafts, it considers new and amended IFRS Accounting Standards as well as issues brought to its attention regarding the application of the Standard.

In 2015, the IASB completed its first comprehensive review of the Standard. It issued 2015 Amendments to the IFRS for SMEs and a second edition of the Standard, incorporating the 2015 amendments, which became effective in 2017.

In 2019, the IASB conducted its second comprehensive review of the SMEs Standard, in line with the objective of commencing a comprehensive review approximately two years after the effective date of the amendments to the SMEs Standard resulting from a previous comprehensive review. As part of this second comprehensive review, the IASB published Request for Information Comprehensive Review of the IFRS for SMEs Standard as a first step in its second comprehensive review and consulted with the SME Implementation Group (SMEIG), an advisory body to the IASB. The objective of the Request for Information was to seek views on whether and, if so, how aligning the SMEs Standard with new and amended full IFRS Accounting Standards in the scope of the review to better serve users of financial statements prepared applying the SMEs Standard without causing undue cost or effort for SMEs.

After considering the feedback on the Request for Information and the recommendations of the SMEIG, the IASB is proposing amendments to the IFRS for SMEs Accounting Standard set out in the following Exposure Draft:

- Third edition of the IFRS for SMEs Accounting Standard

Though India will not be directly affected with changes happening in IFRS for SMEs Standards, however, with the view to contribute to standard setting at international level, the Exposure Draft of the third edition of the IFRS for SMEs Accounting Standard issued by the IASB.

The Accounting Standards Board (ASB) of ICAI has hosted this document at <https://resource.cdn.icai.org/71753asb57738.pdf>. Comments on this document can be provided by **December 31st, 2022**.

Regulations

Security Exchange Board of India (SEBI)

SEBI's new rule on settling unused funds reveals funds mismatch

A new rule has emerged in India's stock markets. According to the law, the brokers should transfer unused funds back to the client's accounts at least once each quarter. The decision has revealed a significant mismatch of funds.

The accounts settlement process has been made mandatory by the SEBI, the market regulator, and the decision was brought into account on October 7, the first Friday of the current quarter.

Merchant bankers can't undertake any business other than those related to the securities market:

The regulation 13A of merchant bankers clearly states that a merchant banker cannot carry on any business other than in the securities market.

Considering the above, it is clarified by the capital markets regulator SEBI that a merchant banker cannot carry on any business other than those pertaining to the securities market.

The clarification came after PNB Investment Services, which is registered as a merchant banker, sought informal guidance on whether it can act as a direct selling agent by starting a fresh business vertical for marketing retail products such as home loans, and car loans on behalf of PNB or other banks.

Reserve Bank of India (RBI)

RBI issues consolidated guidelines on unhedged foreign currency exposure

The Reserve Bank vide its notification dated October 11, 2022, modified and consolidated guidelines for banks on unhedged foreign currency exposures of any entity to prevent losses due to heightened volatility in the forex market.

The RBI has, from time to time, issued several guidelines, instructions, and directives to the banks on Unhedged Foreign Currency Exposure (UFCE) of the entities, which have borrowed from banks. In the wake of a bank seeking clarification on various aspects related to UFCE, the RBI said a comprehensive review of the extant guidelines has been undertaken and all the existing instructions on the subject have been consolidated. These instructions shall come into force from January 1, 2023.

Micro, Small & Medium Enterprises (MSME)

Micro, Small & Medium Enterprises Notification issued for MSME enterprises to continue to avail of all non-tax benefits

The Ministry of vide its notification October 18, 022 has notified that an MSME enterprise will continue to avail all non-tax benefits of the category in case of an upward change in terms of investment in plant and machinery. The benefits can be availed for a period of three years from the date of the such upward change.

This decision has been taken after due deliberations with MSME stakeholders and is in line with the Aatma Nirbhar Bharat Abhiyan.

It clarifies that if in case an enterprise sees an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, it can still avail all non-tax benefits of the category it was in before the re-classification.

Further, the Non-tax benefits include benefits of various schemes of the government related to public procurement policy and delayed payments.



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