

NEWSLETTER

JUNE 2017

J P Chawla & Co. LLP
Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Consultancy Services



FINEPRINT

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July 15th 2017,

CEO's Message

Rocket of GST has finally been launched on 1st July 2017 in the regulatory orbit of Indian fiscal landscape. Government is expecting that GST will finally unify India's highly diverse fiscal market in to one fiscal powerhouse. The law is slowly but steadily being notified with government spreading the nuances of GST to business men through various forms of media. GST though termed as Good and Simple Tax by the government, still has a long way to go when it comes to general understanding of law by the stake holders; though government has assured that they will keep educating the stakeholders and for few months keep enforcement of non compliance penal provisions in abeyance.

Apart from GST, the Transfer pricing arena also saw notification of new safe harbor rules in respect of transactions involving provision of software development services and provision of information technology-enabled services, safe harbour margins have been reduced to peak rate of 18% from 22% in the previous regime. In respect of transactions involving provision of knowledge process outsourcing services, a graded structure of 3 different rates of 24%, 21% and 18% has been provided, based on employee cost to operating cost ratio, replacing the single rate of 25% in the previous regime. These new rates will go a long way in reducing transfer pricing uncertainty and reduce litigation.

Company's Act also notified few relaxations for start-ups and private limited companies, to encourage ease of doing business.

With regulatory upgrade being taken in a fast space by the government, India is empathically looking towards improving its ease of doing business rankings (which is currently as low as 130).

We sincerely hope this June news letter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations such as company law, FEMA and other laws.

Happy Reading!!

Sincerely Yours,

Rajat Chawla

Managing Partner & CEO
New Delhi

The Month That Was

Implementation of the GST will be positive for India's rating as it will lead to higher GDP growth and increased tax revenues. Over the medium term, we expect that the GST will contribute to productivity gains and higher GDP growth by improving the ease of doing business, unifying the national market and enhancing India's attractiveness as a foreign investment destination. The GST will also support higher government revenue generation through improved tax compliance and administration.

Some of the highlights in June 2017 are:-

Govt meets FY17 fiscal deficit target: of 3.5 per cent of gross domestic product for 2016-17. The deficit in absolute terms was Rs 5.35 lakh crore; the budgeted estimate had been Rs 5.34 lakh crore. As a percentage of GDP (at current prices) of Rs 151.8 lakh crore, that comes to 3.52 per cent.

India's seafood export at all-time high in 2016-17 : Riding on a robust demand for its frozen shrimp and frozen fish in international markets, India exported 11,34,948 MT of seafood worth an all time high of US\$ 5.78 billion (Rs 37, 870.90 crore) in 2016-17. USA imported 1,88,617 MT of Indian seafood, accounting for 29.98 per cent in terms of dollar. Export to that country registered a growth of 22.72 per cent, 33 per cent and 29.82 per cent in terms of quantity, value in rupee and US dollars, respectively.

'DigiYatra'- A new digital experience for air travelers: The Ministry of Civil Aviation is adding a Digital experience for Air Travelers through DigiYatra Platform. The 'DigiYatra' is an industry-led initiative coordinated by the Ministry in line with the Prime Minister Narendra Modi's Digital India's vision to transform the nation into a digitally empowered society. This follows Air Sewa which brings together all the stakeholders on a common platform for handling customer grievances and disseminating real-time data.

Retail inflation cools to 2.18%: Retail inflation for the month of May hit another series-low, coming down to 2.18 per cent. Consumer Price Index-based inflation was 2.99 per cent in April and 5.76 per cent in May last year. Food prices entered a deflationary zone in May, with the Consumer Food Price Index at minus 1.05 per cent, against 0.61 per cent this April and 7.47 per cent in May last year.

Cabinet approves proposal to introduce the Financial Resolution and Deposit Insurance Bill 2017: The Bill would provide for a comprehensive resolution framework for specified financial sector entities to deal with bankruptcy situation in banks, insurance companies and financial sector entities. The Resolution Corporation would protect the stability and resilience of the financial system; protecting the consumers of covered obligations up to a reasonable limit; and protecting public funds, to the extent possible.

Return on equity of Sensex firms hits three-year high in FY17 of 11.27% in 2016-17, while return on capital employed (RoCE) hit a five-year high of 15.1%.

TAX

Tax arena saw CBDT notifying secondary adjustment rules and revised safe harbor rules. Further GST is slowly but steadily being notified with government spreading the nuances of GST to various stakeholders. In International tax, Swiss Federal Council has ratified automatic exchange of financial accounts information with 41 countries including India under which first automatic exchange would take place in 2019.

International Taxation

International Taxation June Updates

- **Shyamak Gopal Chattopadhyay [ITAT-2017(Kol)] -Exempts salary credits to seafarer's NRE account, grants benefit of 'vague' CBDT circular**

Shyamak Gopal Chattopadhyay (assessee) a Marine Engineer was employed by Wallem Ship Management Ltd, Hongkong. Assessee was paid remuneration of Rs 33,47,312 (USD 74271.36) on various dates. However assessee filed nil return for AY 2011-12. Assessee provided that, the contract with Wallem Ship Management Ltd was executed by him through an Indian agent to do service with Indian / foreign shipping company and also the contract duly executed in India was signed by him and the agent before joining the ship.

Kolkata ITAT relies on recent CBDT circular 13/2017 wherein it was clarified that salary accrued to non-resident seafarers for services rendered outside India on foreign ships shall not be included in the total income merely because such salary was credited in NRE account in India. Thus, ITAT holds that remuneration received by assessee-individual in his NRE account in India is not taxable for AY 2011-12;

- **Oncology Services India Pvt Ltd [TS-209-ITAT-2017(Ahd)] - Upholds royalty taxation, terms Standard Operating Procedures as information concerning scientific experience**

Oncology Services India Pvt Ltd (assessee) during AY 2009-10 had made payments to a German based entity OSE without deducting tax. Assessee held that payments were made for the purpose of sharing SOPs (Standard operating procedures) access to database, email server, hardware and software and in absence of PE of OSE in India, the payments were not taxable. Assessee contended that the payments would be treated as business profits in hands of OSE.

AO held that the payments to OSE are taxable as royalties u/s 9(1)(vi) on the basis that the payments are for "goodwill and market reputation" and therefore are in nature of technology, patent, trademark amounting to royalty u/s 9(1)(vi). On appeal, CIT(A) upheld AO's order.

ITAT held that though the consideration paid was for sharing of the information about the scientific experiences by the OSE but in effect the consideration was for sharing of scientific, industrial and commercial experiences as covered under article 13(3). ITAT also stated that access to database, harmonization of software systems, policy and process, are only incidental to the main object of sharing the SOPs and cannot be viewed in isolation. ITAT thus remarked that "the payment for sharing of the SOPs, is taxable as 'royalties' under the Indo German tax treaty" and the assessee was liable to deduct tax on payments made to OSE for sharing SOPs.

- **Switzerland ratifies financial account information exchange with India and 40 other jurisdictions**

Swiss Federal Council ratifies automatic exchange of financial accounts information with 41 countries including India under which first automatic exchange would take place in 2019; Information would be exchanged under Multilateral Competent Authority Agreement for automatic exchange of information ('MCAA');

- **EU approves Swedish tax breaks on ESOPs to aid start-ups with personnel-recruitment**

The European Commission ('EU') approves a Swedish scheme to reduce the taxation of employee share options ('ESOP'), under EU state aid rules. It states this scheme aims to reduce the financial risks linked to hiring new employees and to encourage employees to continue working in smaller companies. Under the scheme, employers will pay lower social security contributions and employees will benefit from income tax relief when exercising their share options;

Transfer Pricing

Transfer pricing June Updates

- **GE Medical Systems (India) Private Ltd [ITAT-2017(Bang)] - Assessee equally responsible for assessment-order on 'non-existent entity' post merger, remits matter**

The assessee's argued an appeal before ITAT is on validity of assessment order passed in the name of 'GE Medical Systems Pvt. Ltd.' (Assessee) rather than in the name of 'Wipro GE Healthcare Pt. Ltd' (into which the assessee had merged). The appointed merger date was 1.4.2012 and assessment order was passed on 27.03.2015 in the name of the merging company i.e., M/s. GE Medical Systems (India) Pvt. Ltd., even after the merger took place on 01.04.2012 by making adjustments of Rs. 7.85 crores, Rs. 28.15 crores and Rs. 30.72 crores towards software development services, ITeS and contract manufacturing segment. The assessee argued that since the assessment order was passed in the hands of non-existing company, it was not sustainable.

ITAT remarked that notice was issued u/s 143(2) on 31.07.2012 and till then, there was nothing related to the merger was brought to the notice of AO. ITAT thus concluded that 'complete facts were not brought to the notice of AO at the time of completion of assessment as nothing has been placed on record by the assessee to demonstrate that assessee has furnished the name of the merged company along with their PAN No.' ITAT stated that 'for the mistake in the assessment order, the AO alone cannot be held responsible and the assessee is also equally responsible for it.'

Consequently, ITAT set aside the order of the AO and remitted the matter to AO with direction to pass appropriate order in the name of merged company against its PAN No., after affording opportunity of being heard to the assessee.

- **Techbooks Electronics Services [HC-2017(DEL)] - ITAT-direction for considering 'same FY data' without apportionment/truncation, contrary to Rule 10B(4) proviso**

The assessee, Tech Books Electronics Services Pvt Ltd, a 100% subsidiary of Tech Books, US is engaged in providing IT enabled data conversion services. It also provides marketing, business development/product selling services etc. to its associated enterprises (AEs). TPO proposed an adjustment of Rs. 1.14 crores.

On appeal, ITAT remitted comparability of 'Datamatics Ltd.' which followed calendar year of accounting as against financial year accounting followed by the assessee. ITAT held that, "A valid comparison, in our considered opinion, can be made only if the comparable company has also the same financial year." Further, ITAT noted that although the accounting year of Datamatics Ltd was different, the assessee had collated data for FY 1.4.2004 to 31.3.2005, adopting the figures of quarterly data from Annual reports but if amounts were not directly available without any apportionment or truncation, then the company should not be considered as comparable.

Aggrieved with the ITAT decision, the assessee filed further appeal before the jurisdictional HC.

HC opined that, "ITAT could not possibly have placed a restriction on the Assessee to the effect that it had to place before the AO/TPO only "the relevant data of the said company for the concerned financial year on the basis of the information available from their annual reports, without making any calculations at its own." HC held that such a restriction was contrary to the proviso to Rule 10B(4).

Consequently, HC ruled in favor of the Assessee and directed AO/TPO to consider the relevant data consistent under Rule 10B(4) read with first proviso, while checking the veracity of the OP/TC of Datamatics Ltd. as a comparable.

▪ **Deloitte Consulting India Pvt Ltd [HC-2017(BOM)] - Admits Deloitte's appeal challenging concealment penalty on disallowance of marketing cost reimbursement**

The assessee made reimbursement on account of marketing services for which the TPO determined ALP at Nil. ITAT observed that Deloitte India's role was limited to providing services to AE, whereas the AE was responsible for marketing function.

ITAT also rejected claim for deduction u/s 10A, holding that "the assessee has not complied with the provisions of section 10A, to the tune of income by way of adjustment of ALP. In fact, the assessee enhanced its income, not by making adjustment of ALP, by filing a revised TP report, but only by suo-motu disallowing certain (marketing) expenditure u/s 37". Subsequently, ITAT also confirmed the penalty u/s 271(1)(c) on disallowance of reimbursement of marketing cost and denial of Sec. 10A benefit on such disallowance.

Aggrieved, assessee filed further appeal before jurisdictional HC challenging the penalty imposed u/s 271(1)(c). HC has expedited the hearing in this case.

▪ **Aurionpro Solutions Ltd [HC-2017(BOM)] - Upholds LIBOR on interest-free advances to wholly owned subsidiaries, applies Tata Autocomp ratio**

Aurionpro Solutions Ltd. (assessee) is engaged the business of software development and web designing services. In AY 2007-08, assessee had granted zero interest loans to its wholly owned subsidiaries in USA, Singapore and Bahrain as working capital advances. Assessee benchmarked the transactions at cost plus zero mark-up. However, the TPO held that in a comparable uncontrolled situation such advances would have been liable to interest and thereby levied interest at LIBOR plus 3%.

ITAT rejected the assessee's contention by stating that there was a commercial consideration involved, no transfer pricing adjustment was justified. ITAT held that interest free advances to wholly owned subsidiary are under the ambit of international transaction and held that LIBOR plus 2% would be the appropriate interest rate for the unsecured loans (as also sans guarantee) to the AEs.

Aggrieved, Revenue filed an appeal before Bombay HC. HC held that "The LIBOR rate naturally will be considered to determine the Arm's Length interest, the same would be reasonable and proper in applying the commercial principle." HC thus upheld ITAT's direction for adopting LIBOR plus 2% instead of LIBOR plus 3% adopted by TPO.

▪ **Swiss Re Shared Services (India) Pvt Ltd [ITAT-2017(Bang)] - Rejects DRP's 1% lumpsum risk-adjustment absent accurate projections & details provided by assessee**

The assessee, Swiss Re Shared Services (India) P. Ltd, is a wholly owned subsidiary of Swiss Reinsurance Company, Zurich and provides IT Enabled back-office services in the field of insurance viz. contract administration, claims administration, technical insurance accounting support and other services for its global affiliates.

During TP proceedings for AY 2011-12, TPO rejected assessee's TP Study by not considering forex fluctuation gain / loss as operating in nature for assessee or comparables while computing the operating margin and also denied grant of risk adjustment. DRP directed consideration of forex gain/loss as operating in nature and granted 1% risk adjustment to the assessee.

Aggrieved, Revenue filed an appeal before Bangalore ITAT. ITAT clarified that "If the fluctuation of the foreign exchange either gain or loss is resultant of the correction on account of the sale proceeds booked in the earlier Financial Year, then the same should not be considered as part of the operating margin of the current assessment year". ITAT further stated that if such fluctuation gain is added then the corresponding turnover would also be required to be added while calculating the operating margin. ITAT held that "In the absence of the accurate projections it will be unfair for the DRP to provide a lump sum 1% risk adjustment to the assessee. In the present case, the assessee has not provided details, as required to be provided, therefore the claim of risk adjustment to the extent of 1%, in our view is not maintainable."

▪ **CBDT notifies rules for computation of interest income pursuant to secondary adjustments**

The Finance Act, 2017 inserted section 92CE in the Income-tax Act, 1961 with effect from 1st April, 2018 to provide for secondary adjustment by attributing income to the excess money lying in the hands of the associated enterprise, in order to make the actual allocation of funds consistent with that of the primary transfer pricing adjustment. The provision shall apply to primary adjustments exceeding Rupees One Crore made in respect of Assessment Year 2017-18 onwards. Rule 10CB for operationalising the provisions of secondary adjustment was notified by the Central Board of Direct Taxes on 15th June, 2017. It prescribes the time limit for repatriation of excess money and the rate of interest to be applied for computing the income in case of failure to repatriate the excess money within the prescribed time limit. Separate rates of interest have been provided for international transactions denominated in Indian currency and in foreign currency. The rates of interest are applicable on an annual basis. The time limit of 90 days for repatriation of excess money shall begin only when the primary adjustments exceeding Rupees One Crore made in respect of Assessment Year 2017-18 or later, attains finality. Where the transfer pricing order is appealed against by the taxpayer, the time limit for repatriation shall commence only after the appeal is finalised by the appellate authority.

▪ **CBDT Revises Safe Harbour Rules vide Notification dated June 7, 2017 w.e.f. April 1, 2017**

In order to reduce transfer pricing disputes, to provide certainty to taxpayers, to align safe harbour margins with industry standards and to enlarge the scope of safe harbour transactions, the Central Board of Direct Taxes has notified a new safe harbour regime based on the report of the Committee set up in this regard. The salient features of the new Safe Harbour Regime are:

- It has come into effect from 1st of April, 2017, i.e. A.Y. 2017-18 and shall continue to remain in force for two immediately succeeding years thereafter, i.e. up to A.Y. 2019-2020.
- Assessee eligible under the present safe harbour regime up to AY 2017-18 shall also have the right to choose the safe harbour option most beneficial to them.
- A new category of transactions being “Receipt of Low Value-Adding Intra-Group Services” has been introduced.
- The new safe harbour regime is available for transactions limited to Rs. 200 crore in provision of software development services, provision of information technology-enabled services, provision of knowledge process outsourcing services, provision of contract research and development services wholly or partly relating to software development and provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs.
- In respect of transactions involving provision of software development services and provision of information technology-enabled services, safe harbour margins have been reduced to peak rate of 18% from 22% in the previous regime. In respect of transactions involving provision of knowledge process outsourcing services, a graded structure of 3 different rates of 24%, 21% and 18% has been provided, based on employee cost to operating cost ratio, replacing the single rate of 25% in the previous regime.
- In respect of transactions involving provision of contract research and development services wholly or partly relating to software development and provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs, safe harbour margins have been reduced to 24% from 30% and 29% respectively in the previous regime.
- Risk spreads on intra-group loans denominated in foreign currency will be benchmarked to the 6-month London Inter-Bank Offer Rate (LIBOR) as on 30th September of the relevant year and on loans denominated in Indian Rupees to the 1-year SBI MCLR as on 1st April of the relevant year.
- The safe harbour regime is optional to taxpayers.

Direct Tax

Direct Tax June Updates

- **Having Aadhaar card is must to file your income tax return after June 30th :**

Post Supreme Court verdict upholding Sec. 139AA constitutionality & granting interim relief, the Central Board of Direct Taxes (CBDT) clarified that every taxpayer eligible to obtain Aadhaar number will have to quote his/her Aadhaar number / Enrolment ID in the application form for allotment of PAN and also while filing income tax return from July 1, 2017, onwards. Also, every taxpayer who possesses PAN as on 1 July 2017 and who has Aadhaar number or is eligible to obtain Aadhaar number should intimate the Aadhaar number to the Tax Authority for the purpose of linking PAN with Aadhaar.

CBDT clarifies that for non-compliance of PAN-linking, only a partial relief by the Court has been given to those who do not have Aadhaar and who do not wish to obtain Aadhaar for the time being, that their PAN will not be cancelled so that other consequences under the Income Tax Act for failing to quote PAN may not arise.

- **CBDT amends PAN application rules to include Aadhaar details effective July 1:**

CBDT amends Rule 114 of the Income Tax Rules [relating to Permanent Account Number ('PAN') application] consequent to powers conferred u/s. 139A/139AA (relating to compulsory quoting of Aadhaar number as a pre-requisite for filing IT returns); Amended Rule 114 requires that every person who has been allotted PAN as on July 1, 2017 and who is required to intimate his Aadhaar number as per Sec. 139AA(2), shall intimate Aadhaar number to the Principal DGIT(Systems) or DGIT (Systems) or the person authorized by the said authorities; Further, amended Form 49A now seeks Aadhaar number in case of a person, who is required to quote Aadhaar number as per Sec. 139AA; Amended Rule 114 shall come into force from July 1, 2017.

- **CBDT revises format for Sec 143(2) notices to implement e-assessments:**

In view of increased use of electronic assessment proceedings during the current financial year, CBDT revises format for issue of notices for assessment u/s 143(2).The revised format includes notice for Limited Scrutiny, Complete Scrutiny and Compulsory Manual Scrutiny. Revised notice formats seek furnishing of evidence / information online electronically in "e-filing" facility through taxpayer's account on e-filing website.

- **Technical fees for plant set-up would be treated as capital expenditure: [Honda SIEL Cars Ltd.]**

M/s. Honda Motors Company Limited, Japan (hereinafter referred to as "HMCL, Japan") had entered into a joint venture with M/s. SEIL Ltd., a company incorporated under the Indian Companies Act. After incorporation of the assessee as a joint venture, an agreement dated May 21, 1996 between HMCL, Japan and the assessee was entered into, known as 'Technical Collaboration Agreement'(for short, 'TCA'). As per the TCA, HMCL, Japan which is engaged in the business of development, manufacture and sale of automobiles and their parts, agreed to give 'license' and 'technical assistance' to the assessee.

The TCA also stipulated different kinds of technical know-how and technical information which were to be provided by HMCL, Japan (as a licensor) to the assessee (as a licensee). For providing the aforesaid facilities, it was agreed that a consideration/lump sum fee of 30.5 million US Dollar would be paid by the assessee to the HMCL, Japan in five continuous equal installments and payment thereof was to commence from third year after commencement of commercial production.

The dispute which has arisen is as to whether the said technical fee of 30.5 million US Dollar payable in five equal installments on yearly basis is to be treated as revenue expenditure or capital expenditure.

In this case SC upheld that payment of technical fees in five equal installments on yearly basis to HMCL, Japan is in the nature of capital and not revenue expenditure because expenditure incurred by the assessee in the form of technical know-how fee and royalty was not only for running the business but for bringing the business into existence and, therefore, could not be treated as the revenue expenditure.

- **Upholds Sec. 271(1)(c) penalty, confirms income concealment based on AIR details:[Gangotri Textiles Limited]**

Chennai ITAT upholds concealment penalty u/s. 271(1)(c) in case of assessee-company for AY 2012-13 for concealing the particulars of capital gains income. During the course of assessment proceedings, the Assessing Officer noticed that the assessee did not declare capital gains arising on sale of land and windmill in its return of income, however, pursuant to sale of property reported in AIR, AO issued scrutiny notice u/s. 143(3) and subsequently levied penalty u/s. 271(1)(c); Rejects assessee's stand that the details were inadvertently omitted by oversight and there was no willful concealment of income.

ITAT notes that assessee did not rectify the mistake by filing a revised return disclosing the true and complete particulars before service of notice u/s. 143(2); and also Clarifies that filing LTCG/STCG computation during the course of assessment proceedings cannot be held as voluntary disclosure.

- **Liquidated damages, though received as part of land-sale consideration, assessable as 'income from other sources':[New Holland Fiat (I) Pvt. Ltd.].**

Mumbai ITAT holds that liquidated damages received by assessee as part of sale consideration for land, due to failure on part of purchaser to execute the conveyance deed are penal in nature and therefore taxable under 'income from other sources' u/s 56(1) r.w.s Sec.14 and not as 'capital gains' or 'business income'. ITAT Clarifies that sale consideration and interest being directly linked to sale are taxable under 'capital gain', however liquidated damages being in the nature of penalty (i.e. damages on account of the breach committed by the purchaser), are to be taxed as 'income from other sources'; Further clarifies that, interest and penalty are different concepts and thus remarks that, "nature of receipts or expenses of penal nature are totally different from normal expenses and receipts".

- **CBDT: Notifies operating rules for TDS on rent payment exceeding Rs. 50k by individuals / HUFs:**

CBDT notifies operating rules and forms with respect to Sec. 194IB (inserted by Finance Act, 2017) to provide for TDS on rent payment exceeding Rs. 50,000 for a month by individuals or HUF w.e.f June 1, 2017; Notifies new challan-cum-statement in Form No. 26QC to be furnished electronically by the deductor, further prescribes 30 days period (from the end of the month in which the deduction is made), for depositing TDS with Government and for furnishing Form 26QC; Also, notifies TDS certificate in Form No. 16C to be furnished to the payee within 15 days from the due date of furnishing Form No. 26QC; Accordingly, amends Rules 30, 31 and 31A (relating to time and mode for - TDS deposit, TDS statements / TDS certificate furnishing).

Indirect Tax

Service Tax June Updates:

- **Service Tax Returns for April-June 2017 to be filed by August 15**

Finance Ministry notifies filing of Service Tax Returns in Form ST-3 / ST-3C for the period April – June 2017 by August 15; Revised Return for said period shall be submitted within a period of 45 days from date of submission of return under Rule 7 of Service Tax Rules.

GST June Updates:

- **Director General of Foreign Trade (DGFT) mandates GSTIN declaration post GST implementation, PAN to replace 'Importer Exporter Code' :-**

As per Trade notice No. 9/2017 Dated June 12, 2017, as a measure of ease of doing business, DGFT has decided to keep the identity of an entity uniform across the ministries and departments. With the implementation of the GST, PAN of an entity will be used for the purpose of IEC. For new applicants, w.e.f. the notified date, application for IEC will be made to DGFT and applicant's PAN will be authorized as IEC. Further for the existing IEC holders, necessary changes in the system are being carried out by DGFT so that their PAN becomes their IEC. Currently, PAN has no, one to one correlation with IEC.

- **Postponement of provision relating to TDS (Section 51) and TCS (Section 52) of the CGST / SGST Act 2017**

Based on the feedback received from trade and industry, the government has decided to postpone provision relating to TDS (Section 51) and TCS (Section 52) of the CGST/State GST Act 2017, with the objective of ensuring smooth rollout of GST. The persons supplying goods or services through electronic commerce operator liable to collect tax at source would not be required to obtain registration immediately, unless they are so liable under Section 22 or any other category specified under Section 24 of the CGST / SGST Act, 2017.

- **CBEC Announces Relaxation in Due Date for filing of GST Return in first two months (i.e. July and Aug. 2017) post GST implementation/ Rollout**

CBEC has announced relaxation in due dates for filing of GST Returns in the initial two months, i.e. July 2017 and August 2017. During the said period, tax would be payable based on a simple return (Form GSTR-3B) containing summary of outward and inward supplies which will be submitted before 20th of the succeeding month. However, the invoice-wise details in regular GSTR – 1 would have to be filed for the month of July and August, 2017 as per the timelines given below –

Month	GSTR – 3B	GSTR 1	GSTR 2 (Auto Populated from GSTR 1)
July 2017	20 Aug 2017	1 Sept. To 5 Sept. 2017	6 Sept. To 10 Sept. 2017
August 2017	20 Sept 2017	16 Sept. To 20 Sept. 2017	21 Sept. To 25 Sept. 2017

No late fees and penalty would be levied for the interim period.

▪ **Certain sections of the CGST Act, 2017 brought into force w.e.f. 22.06.2017**

As per Notification No. 1/2017, the Central Government has notified certain sections which shall come into force w.e.f. 22.06.2017.

▪ **Jurisdiction of Central Tax Officers notified**

As per Notification No. 2/2017, the Central Government has notified the jurisdiction of Central Tax Officers.

▪ **CGST Rules, 2017 on registration and composition levy notified**

As per Notification No. 3 /2017, the Central Government has notified the CGST Rules, 2017 on registration and composition levy.

▪ **www.gst.gov.notified as the Common Goods and Services Tax Electronic Portal**

As per Notification No. 4/2017, the Central Government has notified www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax and electronic way bill.

▪ **Exempt persons only engaged in making taxable supplies, total tax on which is liable to be paid on reverse charge basis, exempted from registration**

As per Notification No. 5/2017, the Central Government hereby specifies the persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 (Levy and collection) of the said Act as the category of persons exempted from obtaining registration under the aforesaid Act.

▪ **Modes of verification under CGST Rules, 2017**

As per Notification No. 6/2017, the Central Board of Excise and Customs hereby notifies the following modes of verification, for the purpose of the sub-rule (1) of rule 26 (Deemed registration) of the Central Goods and Services Tax Rules, 2017, namely:-

- (i) Aadhaar based Electronic Verification Code (EVC);
- (ii) Bank Account based One Time Password (OTP):

Provided that where the mode of authentication of any document is through any of the aforesaid modes, such verification shall be done within two days of furnishing the documents.

▪ **Central Tax amendment in Notification No. 3/2017**

As per Notification No. 7/2017, the Central Government has amended the Central Goods and Service Tax Rules, 2017 notified through Notification No. 3/2017 and the same may be called the Central Goods and Service Tax (Amendment) Rules, 2017.

▪ **Turnover limit for Composition Levy for CGST**

As per Notification No. 8/2017, the Central Government, hereby prescribes that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed seventy five lakh rupees, may opt to pay, in lieu of the central tax payable by him, an amount calculated at the rate of,—

- (i) one per cent. of the turnover in State in case of a manufacturer,
- (ii) two and a half per cent. of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II of the said Act, and
- (iii) half per cent. of the turnover in State in case of other suppliers:

Provided that the aggregate turnover in the preceding financial year shall be fifty lakh rupees in the case of an eligible registered person, registered in any following States, namely: -

- (i) Arunachal Pradesh, (ii) Assam, (iii) Manipur, (iv) Meghalaya, (v) Mizoram, (vi) Nagaland, (vii) Sikkim, (viii) Tripura, (ix) Himachal Pradesh:

Provided further that the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table:-

S. No	Tariff item, subheading, heading or Chapter	Description
(1)	(2)	(3)
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

▪ **Certain sections of the CGST Act, 2017 brought in force w.e.f 01.07.2017**

As per Notification No. 9/2017, the Central Government has notified certain other sections which shall come into force w.e.f. 01.07.2017.

▪ **Amendment to CGST Rules notification no 3/2017-Central Tax dt 19.06.2017**

As per Notification No. 10/2017, the Central Government has further amended the Central Goods and Service Tax Rules, 2017 notified through Notification No. 3/2017 and the same may be called the Central Goods and Service Tax (Second Amendment) Rules, 2017.

▪ **Amendment to Notification no 6/2017-Central Tax dt 19.06.2017**

As per Notification No. 11/2017, the Central Government has made the following amendment in the notification no. 6/2017 wherein clause (ii) shall be substituted by following:

- (ii) Electronic verification code generated through net banking login on the common portal;
- (iii) Electronic verification code generated on the common portal.

▪ **Number of HSN digits required on tax invoice**

As per Notification No. 12/2017, the Central Board of Excise and Customs hereby notifies that a registered person having annual turnover in the preceding financial year as specified in column (2) of the Table below shall mention the digits of Harmonised System of Nomenclature (HSN) Codes, as specified in the corresponding entry in column (3) of the said Table, in a tax invoice issued by him.

Serial Number	Annual Turnover in the preceding Financial Year	Number of Digits of HSN Code
(1)	(2)	(3)
1.	Upto rupees one crore fifty lakhs	Nil
2.	more than rupees one crore fifty lakhs and upto rupees five crores	2
3.	more than rupees five crores	4

▪ **Rate of interest under CGST Act, 2017**

As per Notification No. 13/2017, the Central Government, hereby fixes the rate of interest per annum, for the purposes of the sections as specified in column (2) of the Table below, as mentioned in the corresponding entry in column (3) of the said Table.

Serial Number	Section	Rate of interest (in per cent)
(1)	(2)	(3)
1.	Interest on Delayed Payment of Interest under Sub-section (1) of section 50	18
2.	Undue/excess claim or Undue/ excess reduction under Sub-section (3) of section 50	24
3.	sub-section (12) of section 54	6
4.	Interest on Delayed Refunds under section 56	6
5.	Interest on Refund arising from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality as per proviso to section 56	9

Assurance & Accounting

Accounting and Assurance space saw deferment of Ind- AS for insurance companies without deferment of requirement of perform Ind AS financial statements on a quarterly basis. Further ICAI has issued an exposure draft to formalize the auditing rules for joint auditors.

- **IRDA defers Ind-AS implementation in Insurance Sector to April 2020 from April 2018**

As per IRDA circular dated 28th June, 2017, Insurance Regulatory and Development Authority of India (IRDA) has approved the regulatory override whereby the implementation of Ind-AS in the insurance sector has been deferred for a period of Two years and the same shall now be implemented effective 2020-21.

However, the requirement of submitting the Performa Ind AS financial statements on a quarterly basis shall continue to be governed as directed under IRDAI circular reference IRDA/F&A/CIR/ACTS/262/12/2016 dated 30th December, 2016.

- **ICAI issues Exposure Draft of Revised SA 299. “Joint Audits” for comments**

The Proposed Standard on Audit (SA-299) relating to Joint Audit issued by the Accounting Standards Board (ASB) of ICAI lays down the principles for effective conduct of joint audit to achieve the overall objectives of the auditor as laid down in SA 200 “Overall Objectives of the Independent Auditor and the conduct of an audit in accordance with Standards on Auditing”. It deals with the special considerations in carrying out audit by Joint Auditors. Accordingly, in addition to the requirements enunciated in this standard, the joint auditors also need to comply with all the relevant requirements of other applicable Standards on Auditing.

The proposed Standard does not deal with the relationship between a principal auditor who is appointed to report on the financial statements of an entity and another auditor who is appointed to report on the financial statements of one or more component (divisions, branches, subsidiary, joint venture, associates, other entity) included in the financial statements of the entity.

REGULATIONS

Regulatory space saw ease of doing business measures with company law notifying various relaxations for private limited companies, rotation of auditors for certain class of private companies being relaxed, further the Insolvency and Bankruptcy Board of India (IBBI) has notified that the winding up of specified corporate persons shall be completed within a period of 90 days instead of 180 days in other cases.

COMPANIES ACT

▪ EXEMPTION TO PRIVATE COMPANIES

The MCA vide its notification dated 13th June, 2017 has provided certain following exemptions to private companies & start up companies:

- The start up companies now may not include cash flow statement in its financial statements.
- Now a private company can accept deposit from its members up to the limit of 100% of its paid up capital, free reserves and securities premium account.
- A start up company can also accept deposits from its members for a period of 5 years from its incorporation.
- A private company which is not a subsidiary or associates of any other company and whose borrowings from Bank or Financial Institution or any Body corporate is less than twice of its paid up capital or Rs. 50 Crore whichever is lower and who has also not defaulted in payment of such borrowings, can accept deposits from its members.
- Now Small Companies are required to provide only aggregate amount of remuneration drawn by the Directors in its Annual Return u/s 92(1)(g) of the Companies Act, 2013.
- Now the annual return of start up company shall also be signed by its Company secretary or where there is no company secretary, by the Director of the Company.
- Now the Auditors report of One Person Company, Small Company and other private companies having turnover of less than Rs. 50 Crore or aggregate borrowings less than 25 Crore from Bank or Financial Institution or any Body corporate, may not state the adequacy of internal financial control system as specified under section 143 (3)(i) of the Companies Act, 2013.
- Now the start up companies shall also be deemed to have complied with the provisions of section 173(5) of the Companies Act, 2013 if they have conducted at-least one meeting of the Board of Directors in each half of the calendar year and the gap between two Board meetings is not less than 90 days.
- Now the interested Director shall also be counted towards quorum in the Board meeting u/s 184(3) of the Companies Act, 2013.

*Please note the aforesaid exemptions shall be available only to those private companies which have not defaulted in filing of its Financial Statements and Annual Return with the Registrar of Companies.

▪ **FORM DIR-5 FOR SURRENDER OF DIRECTOR IDENTIFICATION NO (DIN)**

The MCA has made available Form DIR-5 for surrender of DIN with effect from 21st June, 2017 instead as an attached of Form RD-1.

▪ **COMPANIES (AUDIT AND AUDITORS) SECOND AMENDMENT RULES, 2017**

The MCA has notified Companies (Audit and Auditors) Second Amendment Rules, 2017 with effect from 22nd June, 2017.

Now the private companies having paid up capital of less than Rs. 50 Crore (earlier 20 Crore) shall not be required to comply with the provisions of Section 139(2) of the Companies, 2013 regarding rotation of auditors and will be able to appoint an individual/firm as its auditor for more than one/two term of Five consecutive years.

▪ **COMPANIES (TRANSFER OF PROCEEDINGS) SECOND AMENDMENT RULES, 2017**

The MCA has notified Companies (Transfer of Proceedings) Second Amendment Rules, 2017 on 29th June, 2017 which specifies that all proceedings relating to voluntary winding up of Company where notice of the resolution by advertisement has been given but the company has not been dissolved before 1st April, 2017 shall continue to be dealt under the provisions of Companies Act.

OTHER ACTS & REGULATIONS

▪ **NOTIFICATION OF FAST TRACK INSOLVENCY RESOLUTION PROCESS**

The Insolvency and Bankruptcy Board of India (IBBI) has notified the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 through which the winding up of specified corporate persons shall be completed within a period of 90 days instead of 180 days in other cases. The aforesaid period of 90 days may be extended by a further period of 45 days at the discretion of Adjudicating authority.

▪ **SUPREME COURT JUDGEMENT ON LINKING OF AADHAR WITH PAN**

The Supreme Court in its judgement on linking of Aadhar with PAN has specified that every person shall quote his Aadhar No/Aadhar Enrolment No for filing of Income Tax Returns as well as the applications for obtaining PAN with effect from 1st July, 2017.

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J P Chawla & Co. LLP Chartered Accountants

New Delhi office:

43 Darya Ganj,
New Delhi - 110002
INDIA

Noida office:

C-129, Sector 2,
Noida - 201 301 (U.P.)
INDIA

Phone: +91-120-4573207, 4573208, 4563873

General Email: info@jpc.co.in

Main Partners Hand Phone & Email

Rajat Chawla +91-9871494499 | rajatchawla@jpc.co.in

J.P. Chawla +91-9811028918 | jpchawla@jpc.co.in

Richa Chawla +91-9990509709 | richajuneja@jpc.co.in

For further information, please email your details to rajatchawla@jpc.co.in or call +91-9871494499.