

NEWSLETTER

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J P Chawla & Co. LLP
Chartered Accountants

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



FINEPRINT

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May 3rd 2017,

CEO's Message

India has its new fiscal year starting from on 1st April 2017. The country is in grip of its biggest indirect tax reform of its independent history, with CGST, IGST & the Goods and Services Tax (Compensation to States) Bill, 2017 and the Union Territory Goods and Services Tax Bill, 2017 receiving assent of president and becoming an act in April 2017. The States have also started enacting SGST bills, with almost five states out of 29, already passed the SGST bill in their local legislature.

On the international tax arena, a land mark judgment was pronounced by Supreme Court of India in case of Formula One World Championship Ltd. ('FOWC') which held that FOWC has a fixed place PE in India by virtue of the international circuit and accordingly has business income in India. Supreme Court also clarified that TDS obligation is limited to the appropriate portion of income which is chargeable to tax in India.

Aadhar (Indian biometric identification number) is becoming important accordingly after income tax department, ministry of corporate affairs (MCA) has advised to its all stakeholders i.e. Directors, Professionals etc. to obtain Aadhar as soon as possible for integrating their details with MCA and also ensure that the information in Aadhar is in harmony with PAN. MCA will announce the date of Aadhar integration shortly.

On the ease of doing business side, the government is all set to bring in a new set of foreign direct investment (FDI) policy reforms across sectors over the next one year. Prime Minister Modi, has also re-propagated his idea of calendar fiscal year and has asked NITI AAYOG (India's new planning commission) to carry out impact analysis.

We sincerely hope this April 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

The government is set to bring in a new set of foreign direct investment (FDI) policy reforms across sectors over the next one year. Further, Niti Aayog (Indian new planning commission) has exuded confidence that India will get back to over 8 per cent growth as it proposed a host of reforms, including reduction in corporate tax to 25 per cent and uniform import duty at 7 per cent. India's fast growing young population is perceived to boost economic activity and help the nation outpace ageing developed nations.

In the light of above, some of the highlights in April 2017 are:-

- **Rupee strengthens to 20-month high** :- The rupee rose beyond 64 a dollar as equity indices hit record highs on huge buying interest from foreign investors. The partially convertible rupee strengthened to 63.93 a dollar, its highest since August 2015. According to most dealers, the rupee's movement was purely driven by portfolio flow and the currency might also lose its value quickly, if the flows reverse.
- **Exports surge 28% in March** :- Merchandise exports grew 27.6 per cent in March, the final month of the 2016-17 financial year, the steepest rate in a little over five years. For 2016-17, exports were \$274.6 billion, a 4.7 per cent rise over the \$262.3 billion the previous year.
- **Flipkart raises US\$ 1.4 billion from eBay, Microsoft, Tencent, acquires eBay India**:-India's largest online retailer Flipkart has closed a mammoth funding round of \$1.4 billion from Tencent Holdings Ltd, eBay Inc. and Microsoft Corp., in the biggest-ever start-up funding round that both boosts Flipkart ability to compete with arch-rival Amazon India and takes the company a step closer to presenting itself (to investors and customers) as the only option to the US firm's Indian arm.
- **RBI clears proposal to introduce Rs200 notes** :- The process of printing the new Rs200 notes is likely to begin after June, once the government officially approves this new denomination.
- **Indian M&A deal value doubles in Mar quarter**: The top telecom deal in the quarter was Vodafone Group Plc.'s merger of Vodafone India Ltd with Idea Cellular Ltd in a \$12.7 billion transaction that accounted for 70.6% of the total deal value in this quarter. The second best performing sector in M&A was energy, mining and utilities (EMU), in terms of deal value, recording 11 deals worth \$1.5 billion in the quarter.
- **SEBI allows commodity options** :- The move would deepen the domestic commodity market and provide farmers and other participants a new hedging tool, in a more cost-effective manner. SEBI also announced a single-licence regime, allowing stockbrokers to deal in commodities and vice versa.
- **Bank credit demand up 5.5% in FY18's first fortnight**:- Bank credit demand in India rose 5.52 per cent to Rs 76.31 trillion (US\$ 1,192.34 billion) in the fortnight, up from a six decade low of 5.08 per cent amounting to Rs 72.31 trillion (US\$ 1,130 billion) , according to the Reserve Bank of India (RBI).

TAX

Tax arena in April saw a landmark judgment of Formula One, which once again laid down principles of fixed place permanent establishment. Date for filing of declaration under PMGKY has been extended up to 10th May, 2017. Further Central Board of Direct Taxes, has directed complete verification of cash deposited in banks since demonetization by May 31 and June 30th is deadline for 100% disposal of cases pending as on April 1, 2017 with respect to verification of non-PAN/demonetized data. GST has continued to make progress with CGST, IGST & the Goods and Services Tax (Compensation to States) Bill, 2017 and the Union Territory Goods and Services Tax Bill, 2017 receiving assent of president and becoming an act in April 2017. The States have started enacting SGST bills.

International Taxation

International Taxation April Updates

- **Union Cabinet approves protocol to amend India-Portugal DTAA enabling tax info- exchange:**

Union Cabinet approves signing of Protocol amending India-Portugal DTAA; The Protocol will ensure fiscal evasion with respect to taxes on income. This protocol would help both India and Portugal to exchange tax related information, which will help tax authorities of both countries to curb tax evasion.

- **Formula One World Championship Ltd. [TS-161-SC-2017] – SC upholds Delhi HC judgment on PE issue**

SC upholds Delhi HC's finding that Formula One World Championship Ltd has a fixed place PE in India by virtue of the international circuit (i.e. place where the motor racing event is hosted). Accordingly the payment made by Jaypee Sports to assessee under the Race Promotion Contract ('RPC') constitutes assessee's business income. With a view to examine whether international circuit was put at the disposal of assessee so as to constitute fixed place PE of assessee, SC refers to the arrangement between assessee and its affiliates on one hand and Jaypee Sports on other hand. SC remarks that "The aforesaid arrangement clearly demonstrates that the entire event is taken over and controlled by FOWC and its affiliates."

- **Hyundai Motor India Limited [TS-166-ITAT-2017(CHNY)] - Hyundai-India's interest payments to Standard Chartered & HSBC Mauritius not taxable absent PE**

Chennai ITAT deletes Sec. 40(a)(i) expense-disallowance, interest payments by Hyundai Motor India Ltd. ('assessee') to Standard Chartered ('SCB-M') and HSBC banks ('HSBC-M'), Mauritius not

subject to Sec. 195 TDS for AY 2009-10 and clarifies that mere presence of affiliates in India, and the fact that some role being played by the affiliates, doesn't lead to a conclusion that Standard Chartered Mauritius and HSBC Mauritius had PE in India, also clarifies that mere occasional use of the office of Indian affiliate cannot result in PE.

- **KRISHAK BHARATI COOPERATIVE LTD. [TS-160-HC-2017(DEL)]** -Upholds FTC for 'tax payable' on Omani dividend, despite exempt in Oman

Delhi HC upholds ITAT order allowing foreign tax credit ('FTC') to assessee (a co-operative society registered in India) in respect of dividend received from its JV company in Oman during AYs 2010-11 & 2011-12 stating that no tax was payable by assessee on dividend receipts in Oman by virtue of Article 8(bis) of Omani Tax Laws, also takes note of Article 25(4) of India-Oman DTAA which Provides that in order to claim credit, tax should have been payable in Oman but for the tax incentives granted in Oman to promote economic development;

- **KPMG [TS-150-ITAT-2017(Mum)]**- KPMG's payment to KPMG-International under membership agreement, not taxable applying 'mutuality' principle

Mumbai ITAT rules that payment made by KPMG India ('assessee') to KPMG International ('KPMGI', registered in Switzerland) under the Membership agreement, not taxable on the grounds of 'mutuality' and Section 195 TDS not applicable. Rejects Revenue's stand that payment was royalty under Article 12(2) of India-Swiss DTAA, as assessee acquired goodwill associated with the name of 'KPMG' and payment was made for use of brand name; Notes that assessee is an Indian member firm of KPMGI, which is a mutual association, further notes that amount remitted by assessee was in the nature of reimbursement of cost to KPMGI to enable it in discharging its function within the terms of Membership Agreement signed by assessee.

- **Saira Asia Interiors Pvt. Ltd. [TS-134-ITAT-2017(Ahd)]**- Actual payment' of royalty, not book-entry triggers Sec. 195 TDS, cites treaty provisions

Ahmedabad ITAT holds that assessee (an Indian company) not liable to deduct TDS u/s 195 at the time of crediting royalty amount to the account of its Italy based group company in the books. Held that liability to deduct TDS u/s 195 shall apply only when actual royalty payment is made in the subsequent year; Observes that as per Article 13 of India-Italy DTAA, royalty is taxable in the hands of the NR recipient only at the time of actual payment by assessee and not at the time of credit.

- **Marck Biosciences Ltd. [TS-128-ITAT-2017(Ahd)]** -Strategic & financial counselling service payment to US entity neither royalty nor FIS

Ahmedabad ITAT rules that professional fees paid by assessee-company to US entity for rendering 'Strategic and Financial Counselling' services, not royalty under Article 12(3) of India-US DTAA for AY 2009-10; ITAT notes that services were rendered by US company were towards

(a) business promotion (b) marketing (c) publicity and (d) financial advisory; ITAT holds that the payment made by assessee was for rendition of these services and not for use of any information concerning industrial, commercial or scientific information, in possession of the service provider,

hence payment not royalty; Clarifies that *"The fact that in the process of availing these services, the assessee benefits from rich experience of the service provider is wholly irrelevant"*; Moreover, ITAT holds that payment doesn't constitute Fees for Included Services ('FIS') under Article 12(4) of DTAA, as 'make available' test not satisfied.

Transfer Pricing

Transfer pricing April Updates

- **Warburg Pincus India Pvt Ltd [TS-238-ITAT-2017(Mum)-TP] - Motilal Oswal incomparable with assessee rendering pure investment advisory services:**

ITAT rules on selection of comparables in respect of assessee rendering non-binding investment advisory services to its AEs during AY 2010-11. ITAT followed the decision passed by Tribunal for AYs 2008-09 and 2009-10 in assessee's own case, and excludes "Motilal Oswal Investment Advisers Pvt. Ltd.", a merchant banker, noting that it cannot be compared with company providing pure advisory services.

- **Cushman & Wakefield India Pvt Ltd [TS-303-ITAT-2017(DEL)-TP] - Remits costs & referral fees reimbursement transactions, follows own HC-ruling**

Assessee, Cushman & Wakefield India Pvt. Ltd. is a wholly owned subsidiary of Cushman Mauritius Holding Inc. Assessee is engaged in the business of rendering services qua acquisition, sales and lease of real estate property and other services in the real estate sector. During AY 2008-09, assessee entered into various international transactions including reimbursement to AEs. TPO rejected assessee's arm's length price (ALP) in respect of the reimbursement by declaring that no services were provided by AE's.

ITAT referred to jurisdictional HC [TS-150-HC-2014(DEL)-TP] ruling and gives clarification that *“authority of the TPO is to conduct the transfer pricing analysis to determine the ALP and not to determine whether there is a service or not from which the assessee benefits. This aspect of the exercise is left to the AO.”*

Further in the same ruling, SC held that ITAT was not right in deleting disallowance u/s 37 only because TPO accepted payment as at ALP, accordingly ITAT directs AO to verify transactions with TPO's report validating ALP and assess deduction u/s 37 accordingly.

▪ **Open Solutions Software Services [TS-305-ITAT-2017(DEL)-TP] - Wipro-Tech fails RPT filter as its entire turnover constitutes deemed international transaction:**

Assessee, Open Solutions Software Services Pvt. Ltd. is a captive service provider engaged in rendering software development research and other related services to its parent company, 'Open Solutions Inc.', USA.

Delhi ITAT excludes 4 comparables (Infosys Ltd., Wipro Technology Services Ltd. [acquired from Citi Group], Persistent Systems Ltd., Third Ware Sales Ltd.) for assessee providing captive software development services to AE for AY 2010-11 as it failed 25% RPT filter applied by TPO. ITAT states that the prearrangement between the Citi group and Wipro Ltd. would make the subsequent rendition of services by this company to the Citi group fall within the meaning of deemed international transaction as defined u/s 92B (2).

Further, ITAT also excludes Persistent Systems (leader in the world of outsource software product development) and Thirdware Solutions (engaged in various activities like sale of licenses, software services and revenues from subscription) as segmental details regarding revenue from software development were unavailable.

▪ **Caterpillar India Pvt Ltd [TS-302-ITAT-2017(CHNY)-TP] -Rejects internal-TNMM considering technological / brand differences; Disapproves restricting TP-adjustments to AE-transactions:**

The assessee, Caterpillar India Pvt. Ltd ('CIPL'), is a wholly-owned subsidiary of Caterpillar Commercial SA, Belgium which is ultimately held by Caterpillar Inc. USA. The assessee is primarily engaged in manufacturing and sale of earthmoving machinery including excavators, bulldozers, dumpers and loaders, and spares for the same and provided the following services to its AE:-

- Provision of services
- Provision of Asia-Pacific shared services

Chennai ITAT rejects use of internal TNMM adopted by the assessee for benchmarking holds that non-CAT segment (comprising of products of erstwhile Hindustan Motors) cannot be compared

With CAT segment (employing modern technology of Caterpillar Group) on the facts that there are differences in the terms of technology, marketing / R&D efforts, brand, procurement process and risk profile.

- **Microsoft Corporation (I) Pvt Ltd [TS-290-SC-2017-TP] - Issues notice in Microsoft's case concerning mark-up on service-tax for AE-service remuneration:**

The assessee, Microsoft Corporation (I) Pvt. Ltd, is a wholly-owned subsidiary of Microsoft Corporation, USA and its principal business includes providing marketing support services to its Associated Enterprises (AE).

SC issues notice in respect of SLP filed by Revenue against Delhi HC ruling in the case of Microsoft 09-10. HC held that AO's basis for reopening, namely that assessee was entitled to 15% mark up on service tax element in relation to provision of marketing and product support services to AEs., was clearly erroneous as the Agreement between assessee and Microsoft Singapore clearly indicated that the compensation payable to the assessee was exclusive of service tax, which would be the responsibility of Microsoft Singapore.

Further, HC observed that, "In view of the plain language of the aforesaid agreement, the fact tax demand has been raised could not possibly lead to an inference that the Assessee was entitled to a markup on the said amount which had escaped assessment." HC held that in the present case, AO had no tangible material to belief that assessee's income had escaped assessment. SC condoned the delay and issued notice for SLP. Further time of four weeks was granted to assessee for filling a counter affidavit.

- **Travel Security Services India Pvt Ltd [TS-285-ITAT-2017(DEL)-TP] - Disapproves DR's usurping of AO's power to contest comparables accepted by TPO:**

Travel Security Group (TSS, UK) is a joint venture between Control Risks Group (a UK based security services firm) and Blue Cross Travel Services B.V. (an International SOS group company). TSS UK provides a comprehensive corporate security programme catering to its clients, which involves travel security services for international travelers and expatriates including analysis, assistance and consultancy.

Delhi ITAT excludes 2 functionally dissimilar comparables viz. Apitco Ltd and TSR Darashaw Limited for assessee providing travel security services to AE for AY 2011-12; Before ITAT, Revenue argued that companies included by the assessee in the list of comparables were also functionally dissimilar and, hence, should also be excluded. ITAT has rejected revenue's contention and opined that "It goes without saying that the companies offered by the assessee as comparable, when accepted by the TPO as comparable, become final and hence cannot be challenged by the

Id. DR. Thus, ITAT rejected Revenue's contention to exclude certain comparables which were accepted by TPO.

- **Arrow Electronics India Ltd [TS-261-ITAT-2017(Bang)-TP] - Upholds PE constitution for Arrow's LO; Accepts 40% profit-attribution based on FAR:**

The assessee, Arrow Electronics India Private Limited, is a wholly owned subsidiary of Arrow Asia Pac Ltd., Hong Kong, which looks after the Asian operations of the US-based Arrow Group.

Arrow Asia Pac Limited had set up branch offices in Singapore, namely, 'Arrow Electronics India Limited', exclusively to service the customers in India. The Singapore based company immediately opened a liaison office (LO) in Bangalore in 1994 after obtaining approval from the RBI, and later opened branches of the LO at Hyderabad, Mumbai, New Delhi & Pune, however the main operations and control remained with the Bangalore office.

Bangalore ITAT upholds 40% profit attribution to Indian operations of Arrow Group for Ays 2000-01 to 2004-05 in reassessment proceedings pursuant to survey conducted at liaison office premises.

- **Sabic Innovative Plastics India Pvt Ltd [TS-234-ITAT-2017(Ahd)-TP]- Deletes TP-adjustments on intragroup management fees absent justification for Nil-ALP under CUP**

Ahmedabad ITAT rules in assessee's favor, deletes TP-adjustments for Ays 2009-10 and 2011-12 on account of payment made by assessee to its AEs on account of intra-group management services. Rejecting TPO/DRPs Nil ALP determination under CUP method, ITAT states that whether a particular expense on services received actually benefits an assessee, cannot have any role in determining ALP of that service.

- **Johnson & Johnson Ltd [TS-265-HC-2017(BOM)-TP]- Confirms TP-adjustment deletion on alleged excessive sales promotion expenses sans ALP determination**

Bombay HC upholds ITAT order deleting TP-addition on account of royalty payment for technical knowhow and brand usage by assessee to its AE for AY 2006-07, dismisses Revenue's appeal; Follows co-ordinate bench ruling in AY 2002-03 which confirmed ITAT's view that TPO's restriction of royalty payment to 1% without giving reasons/ justification was arbitrary and adhoc and that TPO had not carried out ALP-determination exercise by following one of the prescribed methods in Sec 92C;

HC also upholds ITAT's deletion of TP-adjustment on account of publicity & sales promotion expenses, rejecting TPO's view that AE should have shared such cost considering it received higher royalty due to higher sales; Noting that TPO had not determined ALP by following the

methods prescribed u/s 92C (1), HC confirms ITAT's view that TP-adjustment on the basis of an assumption that expenditure was excessive was an action completely de hors Chapter X TP provisions;

- **Hyundai Motor India Limited [TS-322-ITAT-2017(CHNY)-TP]**- Deletes Hyundai India's Rs 350 cr TP adjustment; Brand value accretion not separate international transaction

Chennai ITAT allows major transfer pricing relief to Hyundai Motor India, deletes TP adjustment of over Rs 350 crores for 'deemed brand development' for three years viz. AY 2009-10, 2010-11 and 2011-12; ITAT holds that *"the accretion of brand value, as a result of use of the brand name of foreign AE under the technology use agreement- which has been accepted to be an arrangement at an arm's length price, does not result in a separate international transaction to be benchmarked"*;

Direct Tax

Direct Tax April updates:

- **Date for filing of declaration under PMGKY extended up to 10th May, 2017:**

The CBDT vide circular no. 14/2017 has extended the date of filing of declaration under the PMGKY to May 10, 2017 from earlier due-date of April 10th, in cases where tax, surcharge and penalty have been paid on or before March 31, and deposit under PMGKY Deposit Scheme is made before April 30th.

The declaration form can be filed by a person online after uploading scanned copies of proof of payment of taxes and deposits in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.

- **No tax on notice period pay cut:**

The Ahmedabad Income-tax Appellate Tribunal (ITAT) has held that an amount deducted by an employer for not serving out a notice period cannot be brought to tax.

Under the I-T Act, salary income is taxable on a due basis, regardless of whether it has been actually paid to an employee or not. And typically, when an employee resigns but does not serve out the notice period (provided for in the employment agreement), the employer deducts salary attributed to this period. However, I-T authorities do not consider such deductions and seek to tax entire salary due (that is, salary before allowing for such deduction). Hence, the latest order acquires significance.

"The ITAT has recognized the concept of real income, It held that the salary against which notice pay was adjusted had not become due, as the net amount was paid by the employer. The employee had no right to receive the portion of the salary that had been deducted, under the terms of employment. Thus, the deducted amount could not be held as taxable salary income.

- **Operation Clean Money Top Priority This Quarter: CBDT :**

Operation Clean Money will be top priority for tax officials in this quarter, according to the Central Board of Direct Taxes, which has circulated a detailed action plan and directed field officers to complete verification of cash deposited in banks since demonetization by May 31. Similarly, sets June 30th deadline for 100% disposal of cases pending as on April 1, 2017 with respect to verification of non-PAN/demonetized data.

- **Simplified one page Income Tax Return Form:**

Filing the ITR is going to be less taxing now as in a move towards simplifying the complex income tax forms, the government has launched a new and simplified one page ITR form-1 (Sahaj) for the financial year 2016-17.

“This is a welcome step towards ease of doing business in India and simplifying administrative procedures for the common man. This ITR Form-1(S) can be filed by an individual having income up to Rs 50 lakh from salary, one house property and other income like bank interest, etc. This marks the end of the 7-page complex ITR -1 form which was earlier filed by salaried individuals,”

- **Sale on 'going concern' basis is 'slump-sale', not depreciable asset sale u/s 50(2): [Equinox Solution Pvt. Ltd] [TS-149-SC-2017]:**

SC upholds Gujarat HC judgement granting assessee's claim of deduction under the then existing Sec. 48(2) which was allowable only from long term capital gains. The Assessee-company sold its entire running business in one go with all its assets and liabilities to another company and claimed the sale to be of 'slump sale' in the nature of long term capital gains as the undertaking was owned by assessee for almost 6 years; SC rejects revenue's stand of treating the gains as short term capital gain on transfer of depreciable assets u/s 50(2) as it clarifies that Sec. 50 (2) would apply to a case where the assessee transfers one or more block of assets, which he was using in running of his business; Noting that in present case, assessee sold the entire business as a running concern, SC upholds assessee's claim.

- **SC Rejects taxpayer's double-benefit claim; Amalgamating company's liability waiver taxable u/s 41(1): [M/s. Mcdowell & company LTD.] [TS-147-SC-2017]**

As per section 41(1) of the Act ,where a trading liability was allowed as a deduction in earlier years in computing the business income of the assessee and the assessee has obtained a benefit in respect of such trading liability in later year by way of remission or cessation of the liability, then whatever benefit has arisen to the assessee in the later year by way of remission of the liability will be brought to tax in that year. In case of the amalgamation transaction, SC upholds that waiver of liability due by amalgamating company after amalgamation is taxable in the hands of the amalgamated company u/s 41(1).

- **Allows forex derivative loss set-off as derivative-transactions incidental to main business [Soma Textiles & Industries Ltd.] [TS-151-ITAT-2017 (Ahd)]:**

Ahmedabad ITAT allows set-off of foreign exchange derivative loss against normal business profits of assessee-company during AY 2008-09. It rejects Revenue's stand that since the contract was settled otherwise than through delivery, Sec. 43(5) was attracted, accordingly loss was to be treated as speculative loss, which cannot be set off against normal business income.

ITAT remarks that *“this approach itself proceeds on the fallacy that every loss, in the course of or due to a speculative transaction, is to be treated as loss of the speculative business.”* It takes note of Explanation 2 to Sec. 28, clarifies that it is only when speculative transactions are of such a nature as to constitute business on standalone basis, the income and losses from such

transactions is to be treated as distinct and separate from any other normal business and rules that speculative transactions which are incidental to assessee’s main business cannot be treated

as speculation loss, notes that all the derivative transactions were specific hedging transactions against assessee’s foreign exchange transactions and were integral part of assessee’s business.

▪ **New Income Tax Rules On Home Loan Come Into Effect:**

The government has changed income tax rules that could increase the tax outgo of those who have taken a home loan for a property that has been rented out. The amount that could be set off on home loans for rented property has been reduced. Earlier, in case of rented property, the loss from house property - which is basically the interest paid on home loan minus rental income - was allowed to be adjusted from income without any limit. This helped significantly reduce tax liability. Now the amount that can set off against the loss from rented house property has been restricted to Rs. 2 lakh per annum. This came into effect from April 1, 2017 (assessment year 2018-19).

However, on rented properties, the interest paid above Rs. 2 lakh can be carried forward for eight assessment years.

Service Tax

Service Tax April Updates:

- **Amendment in Service Tax (Advance Rulings) Rules, 2003, vide Notification 12/2017- ST, which shall be effective from the 1st day of April, 2017;**

In the Service Tax (Advance Rulings) Rules, 2003, in rule 2, for clause (b), the following clause shall be substituted namely:

'(b) "Authority" means the Authority for Advance Rulings as defined in clause (e) of section 28E of the Customs Act 1962.

- **New rule 8B has been inserted in the Point of Taxation Rules, 2011 with retrospective effect from 22nd day of January, 2017, vide Notification 14/2017- ST;**

The newly inserted rule deals with the determination of point of taxation in case of services provided by a person located in non-taxable territory to a person in non-taxable territory by way of transportation of goods by a vessel and shall be read as under:

“Notwithstanding anything contained in these rules, the point of taxation in respect of services provided by a person located in non-taxable territory to a person in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, shall be the date of bill of lading of such goods in the vessel at the port of export.”.

- **Amendment in Notification No. 30/2012-Service Tax, vide notification No. 15/2017, which shall be effective from the 23rd day of April, 2017;**

In Notification No. 30/2012-Service Tax, the following explanation namely Explanation III, IV & V shall be substituted:-

Explanation III- The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

Explanation IV- For the purpose of this notification, “non-assessee online recipient” has the same meaning as assigned to it in clause (ccba) of sub-rule 1 of rule 2 of Service Tax Rules, 1994.

Explanation V- For the purposes of this notification, in respect of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, person liable for paying service tax other than the service provider shall be the importer as defined under clause (26) of section 2 of the Customs Act, 1962 (52 of 1962) of such goods.”

- **Amendment in Service Tax Rules, 1994 *vide notification No. 16/2017*, which shall come into force on the 23rd day of April, 2017 otherwise provided;**

In the Service Tax Rules, 1994,

(i) In rule 2, in sub-rule (1), in clause (d), in sub-clause(i), for item (EEC), the following shall be substituted, namely:-

“(EEC) in relation to services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, the importer as defined under clause (26) of section 2 of the Customs Act, 1962 (52 of 1962) of such goods”;

(ii) In rule 6,

- (a)** After sub-rule (7C), the following sub-rule shall be inserted with effect from 22nd January, 2017, namely :-

(7CA) The person liable for paying service tax for the taxable services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, shall have the option to pay an amount calculated at the rate of 1.4% of the sum of cost, insurance and freight (CIF) value of such imported goods.

In sub-rule (7D) and (7Ek), for the brackets, words and figures “(7B) or 7(C)” wherever they occur, the brackets, word and figures “(7B), (7C) or (7CA)” shall be substituted with effect from 22nd January, 2017.

Value Added Tax

VAT April Updates:

DVAT

- Delhi Govt. extends due date for filing online / hard copy of Q4 return for FY 2016-17 in Form DVAT-16, DVAT-17 and DVAT-48 to May 15, 2017; The due date for payment of VAT is unchanged.

MVAT

- Maharashtra extends due date of filing MVAT return for the month Jan-March 2017 to May 15;
- Maharashtra amends MVAT Act, Sugarcane Purchase Tax Act, Profession Tax Act and Entry Tax Rules : Maharashtra Trade Circular

Assurance & Accounting

April saw deferment of Assurance reporting standards due to extensive training requirement, further Ind AS Transition Facilitation Group' has issued various clarifications. Also ICAI has issued exposure drafts related to Indian Accounting standards (Ind AS) 115. Moving forward on demonetization in the financial year 2016-2017, ICAI has issued implementation guidance for reporting introduced in the financial statements and the audit report related to financial year 2016-2017

- ICAI has deferred the applicability of the new Standard of Auditing (SA 701 - Communicating Key Audit Matters in the Independent Auditor's Report) by one year.

The Council of the ICAI, at its 364th meeting held on March 23-25, 2017 considered the deferment of applicability dates of SA 701 and Revised SAs 700, 705, 706. At the meeting, the Council noted the following points: SA 701 and Revised SAs 700, 705 & 706 were approved by the Council at its 350th meeting held in February 2016.

All these standards are applicable for audits of financial statements for periods beginning on or after April 1, 2017. Members of ICAI had requested ICAI to consider the deferment of applicability of these standards by a period of one year because the members are finding it difficult to implement them.

It was felt that there is need to provide adequate training and implementation guidance to the members on these standards so as to equip them with the requirement and to implement these standards appropriately.

It was decided that issue of Implementation Guide and training programmes may take considerable time. After detailed deliberations at the meeting, the Council, in partial modification of the decision taken by it at its 350th meeting held in February 2016, decided that the effective date/applicability of the following Standards on Auditing – SA 700 (Revised), "Forming an Opinion and Reporting on Financial Statements" SA 701, "Communicating Key Audit Matters in the Independent Auditor's Report" SA 705 (Revised), "Modifications to the Opinion in the Independent Auditor's Report" SA 706 (Revised), "Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report" **be deferred by one year** and consequently the said Standards shall now be effective/applicable for audits of financial statements for periods beginning on or after April 1, 2018 (instead of audits of financial statements for periods beginning on or after April 1, 2017 as was earlier decided and referred to above)

- Ind AS Transition Facilitation Group' (ITFG) of Ind AS (IFRS) Implementation Committee has been constituted for providing clarifications on timely basis on various issues related to the applicability and /or implementation of Ind AS under the Companies (Indian Accounting Standards) Rules, 2015, raised by preparers, users and other stakeholders. Ind AS Transition Facilitation Group (ITFG) considered some issues received from members and has issued clarifications in its 7th Bulletin. ICAI revises clarifications issued by Ind AS Transition Facilitation Group .ICAI has also revised Ind AS Transition Facilitation Responses. ICAI also has issued Exposure Draft with clarificatory amendments to incorporate the changes in Ind AS 115 to mirror the changes introduced internationally to IFRS 15.

REGULATIONS

Regulations saw various amendments related demonetisation disclosure, company law also saw change in definition of related party. April also saw the assent of the President for the Employee's Compensation (Amendment) Act, 2017. In terms of this amendment every employer shall immediately at the time of employment of an employee, intimate the employee of his/ her rights to compensation under this Act.

COMPANIES ACT

▪ **COMPANIES (MEETINGS OF BOARD AND ITS POWERS) AMENDMENT RULES, 2017**

The transaction limits for related party transactions has been substituted by the words “amounting to ten percent or more” and “ten percent or more of turnover” for the words “exceeding ten per cent” and “ten percent of turnover” under Rule 15(3) Companies (Meetings of Board and its Powers) Rules, 2014.

▪ **AMENDMENT IN SCHEDULE III OF COMPANIES ACT, 2013**

MCA has amended Schedule III of the Companies Act, 2013 which provides that every company shall disclose the details of Specified Bank Notes (SBN) held and transacted during the period 08/11/2016 to 30/12/2016 in the notes to accounts.

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

Now the Auditors' report of every Company shall include views and comments on the matter that the company had provided requisite disclosures in its financial statements as to holdings as well as dealings in Specified Bank Notes during the period from 8th November, 2016 to 30th December, 2016 and these are also in accordance with the books of accounts maintained by the company.

▪ **STRIKE OFF THE NAME OF THE COMPANIES FROM MCA**

The Form STK-2 for striking off the name of the Company is available on MCA for filings. Now the companies who were waiting for the aforesaid forms can proceed for strike off under section 248 of the Companies Act, 2013.

▪ **AADHAR INTEGRATION FOR MCA RELATED SERVICES**

MCA has advised to its all stakeholders i.e. Directors, Professionals etc. to obtain Aadhar as soon as possible for integrating their details with MCA and also ensure that the information in Aadhar is in harmony with PAN. MCA will announce the date of Aadhar integration shortly.

▪ **MCA NOTIFIES SECTION 234 OF THE COMPANIES ACT, 2013**

MCA has notified Section 234 of the Companies Act, 2013 pertaining to Merger or amalgamation of Company with Foreign Company with effect from 13th April, 2017

▪ **COMPANIES (COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS) AMENDMENT RULES, 2017**

MCA has amended the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 with effect from 13th April, 2017 which specifies that a foreign company incorporated outside India may merge or amalgamate with an Indian Company and vice versa after obtaining the in principal approval of Reserve Bank of India and compliances under Companies Act, 2013.

▪ **REVISION IN FORM CHG-1 AND CHG-9**

MCA has revised Form CHG-1 and CHG-9 for registration of creation, modification of charge with effect from 22nd April, 2017 and have specified that if the type of Charge is on Immovable property then the location parameters (Latitude and Longitude) shall be mandatory.

▪ **CLARIFICATION ON ONLINE GENERATION OF CHALLANS FOR OFFLINE PAYMENT TO INVESTOR EDUCATION AND PROTECTION FUND (IEPF)**

MCA has specified a detailed procedure for the companies, which have transferred the amount to IEPF prior to 15.12.2016, through Challans not generated on MCA-portal and were/are unable to file IEPF-1.

▪ **ADVISORY TO FURNISH STATEMENT OF FINANCIAL TRANSACTIONS (SFT) TO THE INCOME TAX DEPARTMENT**

MCA has issued an advisory to Companies to furnish the statement online in respect of the transactions under Rule 114E of the Income Tax Rules 1962 in Form 61A to the Income-Tax Department on or before 31st May, 2017.

▪ **TRANSFER OF SHARES TO INVESTOR EDUCATION AND PROTECTION FUND**

MCA vide its General Circular No 03/2017 dated 27th April, 2017 has prescribed the procedure for transfer of shares to Investor Education and Protection Fund (IEPF).

Further where the seven year period as mentioned under section 124(5) of the Companies Act, 2013 has been/is being completed during 7th September, 2016 to 31st May, 2017 then the due date for transfer of such shares by companies is 31st May, 2017.

OTHER ACTS & REGULATIONS

▪ **THE EMPLOYEE'S COMPENSATION (AMENDMENT) ACT, 2017**

The Employee's Compensation (Amendment) Act, 2017 had received the assent of the President on the 12th April, 2017. In terms of this amendment every employer shall immediately at the time of employment of an employee, intimate the employee of his rights to compensation under this Act, in writing as well as through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee.

TAX CALENDER

April, 2017

Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun							
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
Date	Regulation	Obligation																											
7	Income Tax	-Last date for deposit of tax deducted by an office of the government for the month of March, 2017 in which the deduction is made, where tax is paid accompanied by an income tax challian.																											
14	Income Tax	- Due date for issue of TDS Certificate for tax deducted under section 194 IA in the month of February, 2017.																											
15	DVAT	- Last date for payment of tax deducted at source on payment made to contractor during the month of March, 2017																											
15	PF	-Last Date for deposit of Provident Fund for the month of March, 2017																											
20																													
	UPVAT	- Last date for online filing of return for the quarter/month ended March, 2017 & last date for tax payable from 21st March to 31st March for the tax period ending on 31st March, 2017																											
21	DVAT	-Last date for online payment of tax due for the month of March, 2017																											
21	ESI	-Last Date for deposit of Employees State Insurance for the month of March, 2017																											
21	MVAT	-Last date for payment of taxes for the quarter/ month ended March 2017.																											
22	DVAT	- Date of issuance of certificate for Tax Deducted at Source in the month of March 2017																											
25	Service Tax	- Last date for filing of service tax return for the period October 1, 2016 to March 31, 2017																											
28	DVAT	- Last date of filling of DVAT/CST Return for the quarter ended 31st March, 2017																											
30	Income Tax	-Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March, 2017 has been paid without the production of Challan																											
30	Income Tax	-Due date for furnishing of challan-cum-statement in respect to tax deducted under Section 194 IA in the month of March, 2017																											
30	Income Tax	-Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2017.																											
30	Income Tax	-Due date for e-filing of a statement in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2016 to March 3, 2017																											
30	MVAT	-Last Date for filing of return for the month ended March, 2017.																											

Form No.
Challian 281

Challian Form-I and
Return:- Local:- Form 24 &
Central:- Form-CST
DVAT-20

DVAT-43
ST-3

GAR-7

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