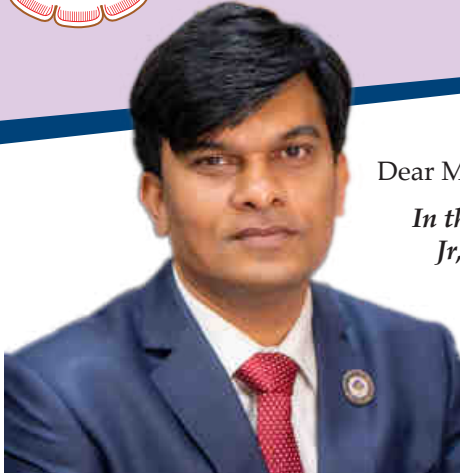




Western India Chartered Accountants Newsletter



Dear Members,

In the words of Martin Luther King Jr, "The ultimate measure of a man is not where he stands in the moments of comfort, but where he stands at times of challenge and controversy."

It is true that currently we are facing one of the most challenging business environments of all times. Stakeholders including government, investors, entrepreneurs, professionals, employees, and customers are trying their best to navigate the uncharted waters and reach the shore safely. Organisations are focused on survival rather than growth. The impact of pandemic is evidently visible at each stage of supply chain right from manufacturer, distributors, retailers, and customers.

However, hoping that things will be back to what they were before the pandemic once the impact reduces will not be correct. It is estimated that Covid 19 will have long term impacts on the way business were conducted till date and organisations whether big or small should adapt them sooner rather than later.

As Chartered Accountants we are guardians of capital and finance and we need to be at the forefront in these times. The confidence we impart to our clients, the solutions we provide and the morale improving support from our side can make a huge difference in the way the industry functions.

Transition into digital business environment for members

We understand the technology has unprecedented and profound impact in how we provide services. Technologies like cloud computing, online collaboration and data sharing are rapidly changing the manner in which accounts and finance professional carry out their obligations towards their clients.

It is time that we rapidly adapt ourselves with the skills that will assist us in performing, alongside with the technology and at the same time provide services which are yet not provided by us.

With a view to promote the interests of our members, WIRC has organised Virtual CPE Meetings on 'Smart Rooms VDR Platform & Tools & Technology for Small & Medium CA

Message from Chairman's Desk

'Firm' and 'Data Analysis for Auditors using IDEA'. The session was highly appreciated by the participants and shall help the members in easily adapting to technological change and develop a competitive edge while providing services to the clients.

Virtual CPE Meetings

Moving forward with our aim to continue sharing knowledge and develop the skills of the members, irrespective of the conditions and challenges, WIRC has successfully organised several virtual CPE meetings in July 2020.

It is a moment of pride for me to state that our Virtual CPE Meetings are seeing renowned speakers illuminating the fraternity with their expertise and experience.

The virtual CPE Meeting on "Benami Law" was graced by the presence of CA. Ashwani Taneja, Ex-ITAT Member.

Further WIRC's Virtual CPE Meeting on "Pharma Industry" saw the presence of key management personnel from top pharma companies. Their presentations gave a much better insight into the pharma industry as a whole to our members. For more industry specific interactive sessions, members can send their suggestions on wirc@icai.org

Apart from above, WIRC has organised a Virtual CPE Meeting on 'Registration and Taxation of Charitable Trusts, Institutions'; 'Tally Summit 2020' and 'Workshop on Excel: An Intelligence Tool for Financial Modelling' which were actively participated and appreciated by the members.

Members and Students can access the upcoming Virtual CPE meetings from <https://wirc-icai.org/members/registration-cpe-programmes>

Refresher Course

In addition to Virtual CPE meetings, WIRC has been actively organising Refresher courses to help members revisit and revise their knowledge in existing areas of service. The refresher course has been widely popular with the members as they continue to join in large numbers.

During the month we had the honour to host CA. Sachin Patil, EOW Director for the "Refresher course on Forensic Audit"; and CA. Sushil Solanki, Ex-Commissioner Service Tax for the "Refresher Course on GST".



Office Bearers

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CA. Vishal P. Doshi
Vice Chairman

CA. Murtuza
Kachwala
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CA. Nihar Jambusaria



Forthcoming Events

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Law Updates & Miscellaneous

Page 05

Further “**Refresher Course on Accounting Standards-case studies, disclosures and impact on Audit Reporting of SMEs**” was graced by presence of CA. N. P. Sarda, Past President – ICAI

WIRC Research forum

At WIRC we are always looking to construct a stronger present for a more solid future. To that end, we organised a Virtual CPE Meeting on “**Research-Techniques & Career Prospects**”. This was attended by the doyens of not only the profession but also education professionals in order to create a more holistic approach. Our esteemed Vice President ICAI, CA. Nihar Jambusaria was present along with CA. Sangeeta Pandit, HOD Finance - Sydenham Institute of Management (SIMSREE), Dr. Paritosh Basu, Senior Prof. & Chairperson of MBA (Law) - NMIMS University School of Business Management and Prof. (Dr.) Ketan R. Upadhyay, Dean, Department of Accounting and Financial Management, The Maharaja Sayajirao University of Baroda. Their insightful guidance was highly appreciated by all in attendance.

Further, in order to promote, create and enrich members to engage under subject specific research activity, WIRC has started with an initiative of “**WIRC Research Forum**”. As a part of the activity of the Research Forum, we will have an elaborate discussion on Research activity and will decide the areas, methods, and procedures of research at WIRC in consultation with ICAI.

Interested members can join the research forum, by filing the form at <https://forms.gle/wDGw7iWVQdMxpSZv6>

Recording for Webinars/Virtual CPE Meetings

With an aim to assist members to revisit the Virtual CPE Meetings and Refresher courses at any time in future, WIRC has created a repository for Virtual CPE meeting and Refresher Courses recorded videos

The videos can be accessed by members at <https://wirc-icai.org/notice-board/1249-recording-of-webinar-series>. I highly recommend members to make the most of the opportunity if they could not attend the Virtual CPE Meetings/ Refresher Course at scheduled times.

Live Career Counselling Help Desk

It is a pleasure for me to announce that the Career Counselling Help Desk, designed to help the prospective students of Chartered Accountancy course know more about the prestigious course is now live.

The portal can be accessed at <https://careercounselling.wirc-icai.org/>. The students at Secondary School, Higher / Senior Secondary School, Graduation / Post Graduation Level & Others shall be able to post their queries and the same will be resolved by an expert committee at WIRC.

Further, students will also be able to access articles published on the platform and search the knowledge portal.

Members and students are requested to share the link and details of Career Counselling help desk to all students desirous of pursuing Chartered Accountant course.

Help desk for members and students

In order to cater quickly and efficiently to doubts of members and students, WIRC has launched a live helpdesk wherein members and students can visit and raise their queries. The queries are channelized to concerned person for necessary action/ response.

I am happy to share that the portal is live and members and students can share the queries at <https://helpdesk.wirc-icai.org>. For Live Helpdesk please write to wirc@icai.in

Referencer on GST Annual Return and Audit- To be released on 4th August

With the objective of providing one stop guidance for members on GST Annual Return and GST Audit for FY18-19, WIRC has prepared a detailed referencer on GST Annual Return and GST Audit. The same will be released by us on 4th August 2020. Members are requested to visit www.wirc-icai.org for further updates.

Reference Manual

I am also pleased to inform that WIRCs most awaited publication, the “**WIRC Reference Manual 2020-21**” can now be ordered online from the link given below. You can pay online and collect the Reference Manual directly from ICAI BKC or get it couriered to your address (delivery charges applicable)

The WIRC Referencer 2020-21 is available at: <https://wirc-icai.org/manuals-purchase/272-purchase-of-publication/individual-registration>

Research group for “Ease of requirements of various registration of foreign company venturing in India”

In order to identify the challenges faced by foreign companies trying to venture in India and suggest measures to remove the difficulties and improve ease of doing business, WIRC is forming a research group for “*Ease of requirements of various registration of foreign company venturing in India*”

The findings of the research along with suggestions shall be shared with concerned authorities for effective implementation.

I would urge members to contribute in the above initiatives by writing a confirmation mail at wirc@icai.in

I would like to conclude with a message that let us look to the future with confidence and determination that we will overcome and take the profession to greater heights. WIRC has always been there to support all members and students and we will continue to do that for the betterment of the fraternity as a whole.

As always, take care, stay safe and remain healthy.

Yours Sincerely,



Lalit Bajaj
Chairman

Forthcoming Events Webinar for Members

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
04/08/2020 Tuesday 06/08/2020 Thursday 08/08/2020 Saturday 10/08/2020 Monday 13/08/2020 Thursday 10 CPE Hrs	5.00 p.m. to 07.00 p.m. ₹ 1000/- (Incl. GST)	Refresher Course on GST Annual Return & GST Audit Tuesday, 4th August, 2020 Planning, Commencement and Documentation, Record keeping as per GST Thursday, 6th August, 2020 Issues in Outward supplies in GSTR 9 and 9C Saturday, 8th August, 2020 GST Audit vs IND AS Vs ICDS Monday, 10th August, 2020 Issues in Inward supplies in GSTR 9 and 9C Thursday, 13th August, 2020 Auditors recommendation, Verification, Certificate (Part B), observation, Qualification and Remarks in GSTR 9C	CA. Neeraj Menon CA. Jatin Christopher CA. Sandeep Shah CA. Naresh Sheth CA. Gopal Bohra CA S. Venkatramani CA. Abhay Desai	CA. Manish Gadia 9820537986 CA. Umesh Sharma 9822079900 CA. Yashwant Kasar 9822488777 CA. Shilpa Shinagare 9820053395	CA. Rahul Surekha 9773450180 CA. Manish Jhawar 7506891703 CA. Tarun Jain 9422999806 CA. Shivratan Singrodia 9892365985
08/08/2020 Saturday 14/08/2020 Friday 21/08/2020 Friday 29/08/2020 Saturday 05/09/2020 Saturday 15 CPE Hrs	02.00p.m. to 5.00 p.m. on 8/8/2020 & 29/08/2020 5/09/2020 05.00 p.m. to 08.00 p.m. on 14/8/2020 & 21/08/2020 ₹ 1000/- (Incl. GST)	Refresher Course on Finance, Present & Future Landscape Saturday, 8th August, 2020 from 02.00 p.m. to 05.00 p.m. Inauguration Types of Finance How to raise funds for Start ups Friday, 14th August, 2020 from 05.00 p.m. to 08.00 p.m. All about MSME advance Mudra and Stand up Loan Friday, 21st August, 2020 from 05.00 p.m. to 08.00 p.m. Alternative ways of raising Funds - Private Equity and NCD SME IPO Saturday, 29th August, 2020 from 02.00 p.m. to 05.00 p.m. CIBIL and its functioning Factors affecting External Credit Rating Saturday, 5th September, 2020 from 02.00 p.m. to 05.00 p.m. Finance for Builders and developers Panel Discussion <ul style="list-style-type: none"> • Challenges faced by Banking System • Leveraging Through equity and debt • Way forward for MSME • Road map to Growth - Role of Financial Institutions 	Mr. Arijit Basu, MD, SBI CA. Sunil Goyal, Founder, Managing Director, Ladderup Finance Ms. Akhila Deshpande Head PR and Communication, Prime Ventures Shri Sanjay Jain GM, SIDBI Mr. Sunil Chavan GM, Central Bank of India Dr. Ashok Ajmera Chairman & CEO, Ajcon Global Services Ltd. Mr. Ajay Thakur, Head of BSE SME Exchange Mr. Saurabh Sinha Vice President and Head-Fintech & E commerec at TransUnion CIBIL Limited CA. Revati Kasture Sr. Director, Care Rating Mr. Challa Sreenivasulu Setty, MD Retail and Digital Banking, Stressed Assets-SBI CA Navneet Munot CIO, SBI Mutual Fund CA. Sanjay Agarwal CEO, Ambit Finvest	CA. Jayesh Kala 9820010113 CA. Drushti Desai 9820335923 CA. Arpit Kabra 9819007027 CA. Hitesh Pomal 9824049402	CA. Vaibhav Bhagat 9833464509 CA. Vikrant Kulkarni 9881880073 CA. Sumeet Doshi 9869525956 CA. Arvind Pandey 9699030260

Acknowledgements for Research Initiatives

Yesterday's webinar is very informative. The webinar has cleared my doubts about the research and I came to know one more area for CA fraternity to contribute.

Thanks to the organisers & hope many such webinar in coming days

CA. Rajesh Raut

It was indeed a good programme and the structuring of the same reflects the great pains the organisers have taken. Whoever has been in the background, their efforts deserve much appreciation.

One suggestion- if an actual case is taken to explain the process may be by the academic team, the participants will be able to get a better clarity.

Otherwise, the panelist and the compering were very good.

Compliments to WIRC

A Sheik Dawood

Thank you for this webinar, it was very useful. Are you going to be uploading the video into youtube, as I missed half of it? I would appreciate if you can upload the video and also looking forward to collaborating and writing more on India's business environment.

Thank you,

Dharish David (PhD), Singapore Institute of Management, Singapore

The webinar on Research held on Saturday, 25th July, 2020, was result-oriented. This will inspire all the CAs [including seniors] to undertake many research projects. Congratulations and best wishes.

Warm Regards.

CA. Prof. Suresh K. Mehta.

It was very informative session

CA. Mehul Kishnani

I have enjoyed and enrich my knowledge. I appreciate your informative speech.

CA. Jaswantlal Shah

This was one of the most intriguing and thought-provoking webinars I have attended.

Whilst, topics of discussion were well elaborated. I could not believe how 3 hours had elapsed.

Would appreciate it if the videos of this webinar are stored on the Institute website.

CA. Anand Fernandes

It was a unique programme and provided one more opportunity to our fraternity. The professionals who were well experienced of this topic guided us in a very lucid and informative manner.

Such programmes should be held in future also.

Wirc has done a commendable job by organising this programme.

CA Sagar Mal Pareek

An insightful session.

Really appreciate the efforts of the Regional Council.

CA. Amogh Doger

Wonderful webinar session on Research. Very rich experience from learned moderator Subhash Sir and all speaker panelists on a different subject altogether.

CA. Nitin Pathak

Law Updates

DIRECT TAX – LAW UPDATE
CA. Haresh Kenia, CA. Deepak Lala, CA. Gopal Bohra



PRESS RELEASE - Extension of various time limits under Direct Tax & Benami laws

In view of Corona Virus (COVID-19), the Government brought the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 [the Ordinance] on 31st March, 2020 which extended various time limits. In order to provide further relief to the taxpayers for making various compliances, the Government has issued a Notification on 24th June, 2020.

The extension of various time limits under Direct Tax & Benami laws for making various compliances are already covered while explaining the relief granted under notification no 35 dated 24.06.2020. The other clarification issued under this press note are as under

- Deferment of the implementation of new procedure for approval/ registration/ notification of certain entities u/s 10(23C), 12AA, 35 and 80G of the IT Act has already been announced vide Press Release dated 8th May, 2020 from 1st June, 2020 to 1st October, 2020. It is clarified that the old procedure i.e. pre-amended procedure shall continue to apply during the period from 1st June, 2020 to 30th September, 2020. Necessary legislative amendments in this regard shall be moved in due course of time.
- The Finance Minister has already announced reduced rate of TDS for specified non-salaried payments to residents and

specified TCS rates by 25% for the period from 14th May, 2020 to 31st March, 2021. The announcement was also followed by the Press Release dated 13th May, 2020. The necessary legislative amendments in this regard shall be moved in due course of time.

Rule -11UAC - Prescribed class of persons for the purpose section 56 (2)(x) proviso clause (XI).

The CBDT vide notification no 40-2020 [F. No.370149-143-2019-TPL] - GSR 421(E) dated June 29, 2020, publishes the Income Tax (14th Amendment) Rules, 2020, to further amend the Income Tax Rules, 1962. These rules shall be implemented from April 1, 2020 and shall be applicable for the Assessment year 2020-21 and subsequent assessment years

It amends Income tax Rules by substituting Rule 11UAC regarding Prescribed class of persons for the purpose of section 56 (2)(x) proviso clause (XI). The New rule 11UAC provides that the provisions of clause (x) of sub-section (2) of section 56 shall not apply to the following.

- (1) any immovable property, being land or building or both, received by a resident of an unauthorized colony in the National Capital Territory of Delhi, where the Central Government by notification in the Official Gazettee, regularized the transactions of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognizing right of ownership or transfer or mortgage in regard to such immovable property in favor of

such resident. It defines Resident and unauthorized colony.

- (2) any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary received by a shareholder, where, –
- (i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government under section 242 of the said Act; and
- (ii) share of company and its subsidiary and the subsidiary of such subsidiary has been received pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

It defines tribunal and subsidiary of another company.

- (3) any movable property, being equity shares, of the reconstructed bank, received by the investor or the investor bank, as the case may be, where the said share has been allotted by the reconstructed bank under the scheme at a price specified in sub-paragraph (3) of paragraph 3 of the scheme.

It defines investor, investor bank, reconstructed bank and Scheme.

Readers may refer to the notification for further details.

DIRECT TAX – RECENT JUDGMENT

CA. Paras Savla, CA. Narayan Atal



S. 11(1)(c) – Deduction in respect of approved donation to foreign university

Trust is entitled to claim deduction u/s 11(1)(c) in respect to donation made to the foreign university on the basis of specific approval from CBDT. Once specific approval is granted by CBDT, it is not open to the CIT(A) to review the decision of CBDT. It was observed by the ITAT “the CBDT has approved the exemption being granted in respect of payments made by the assessee trust to the Cornell University USA and Harvard University USA, in which the Assessing Officer has duly given effect to the stand so taken by the CBDT, and yet a hyper-pedantic, even if a bonafide, approach of the learned CIT(A), seemingly more loyal to the CBDT than CBDT itself, has resulted in this wholly avoidable litigation which does not only clog the serious litigation before the judicial forums but also diverts scarce resources of the philanthropic bodies, like the assessee before us, to the areas which do no good to the society at large. It appears that the view taken in the matter by the CIT(A) in reviving an issue which was already concluded by the Assessing Officer in favour of the assessee, and in the Assessing Officer defending the action of the CIT(A), is inherently incompatible with much appreciated and very forward looking approach of the Government of India towards minimising litigation and thus creating a taxpayer friendly environment. We hope that the admirable work being done by the Government of India, in pursuing such forward looking policies at the macro level, is not allowed to be overshadowed by the isolated situations like this, at the field level, which must be minimized by sensitising the authorities concerned. An effort should be made to create a taxpayer friendly atmosphere by adopting just and fair approach at every level of the tax administration.” - Tata Education and Development Trust v. ACIT [2020] 117 taxmann.com 946 (Mumbai - Trib.)

INTERNATIONAL TAXATION

CA. Hinesh Doshi, CA. Pramitha Rathi



Van Oord Dredging and Marine Contractors BV vs. Deputy Commissioner of Income Tax [TS-252-ITAT-2020(Mum)] dated 27th May, 2020

Facts:

The assessee, a company based in Netherlands, established a project/site office, by RBI's approval, for executing contracts in India.

The assessee received an arbitration award in relation to the project in the current year for an appeal filed in the earlier years.

The assessee did not add the income received in relation to the project in India as the project was completed in the earlier FY's on the contention that in the absence of any PE in India, the same would not be taxable in India as per Article 5 r.w. Article 7 of the India- Netherlands DTAA.

AO disagreed and taxed income in India and levied penalty u/s.271(1)(c) during the assessment proceedings.

Aggrieved, the assessee filed an appeal before ITAT.

Issue:

Whether excluding the arbitration reward received by the assessee in the return filed would result in inaccurate or incomplete return?

Held:

ITAT observed the fact that the assessee did not include the arbitration award in the return filed would not result to furnishing of inaccurate particulars to income as claiming or not claiming of the same was a matter of perspective of the assessee.

ITAT ruled that just because the interpretation was not acceptable to the AO, it would not render the return incorrect.

Also, ITAT noted that at the time of filing of the return the assessee explained the reasons for not including the amount in question received as “arbitration award” in its taxable income.

ITAT stated that the assessee did not have any PE in India for the project at the time of receiving the arbitration award and therefore the same cannot be brought to tax in India.

- ITAT ruled that there was neither any concealment of particulars of income nor furnishing of inaccurate particulars of income by the assessee and therefore penalty u/s 271 (1)(c) cannot be imposed on the assessee.

- Accordingly, ITAT ruled in favour of the assessee.

FEMA

CA. Manoj Shah, CA. Atal Bhanja



Analysis of Compounding Orders

Overseas Direct Investment – FEMA Notification No. 120

Everest Kanto Cylinder Limited - CA No. 5008/2019 dated 17/02/2020

Nature of Contravention	Regulation Reference	Amount of Contravention	Period of contravention	Compounding Fee Levied (Rs.)
Delayed repatriation of interest due on loans	Regulation 15(ii) of FEMA 120	21,08,84,700	6 months to 11 years approximately	15,30,025
Delay in submission of APRs	Regulation 15(iii) of FEMA 120	APR for 2007, 2017 and 2018	3 APRs	30,000

Law Updates

Facts of Order and Comments

The company had made ODI in an overseas WOS in China. Company had given loan of USD 59,80,680 to overseas WOS during the period from 2007-2012.

Indian Company failed to receive interest of USD 38,18,654 for multiple loan remittances from its WOS within 60 days. Further, the interest amount was written off with approval of RBI on June 2019. There was also delay in submission of APR for 2007, 2017 and 2018.

As per Regulation 15(ii) of FEMA Notification No. 120 all dues outstanding from WOS must be repatriated back to India within 60 days from the date of its becoming due. Also as per Regulation 15(iii) Indian Party must submit with RBI through AD, every year on or before December 31, an APR in respect of its WOS.

Thus, write off of interest due from WOS by Indian company beyond period of 60 days resulted in contravention of Regulation 15(ii) of FEMA Notification No. 120 and delay in submission of APRs resulted in contravention of Regulation 15(iii) of FEMA Notification No. 120.

GOODS AND SERVICES TAX CA. Rajiv Luthia



CBIC vide notification 51/2020-CT dated 24th June, 2020, 52/2020-CT & 54/2020-CT dated 24th June, 2020 has reduced Interest rate & waived late fees for delay in filing GSTR 3B as follows

Class of registered Person	Tax Period	Date till which no Interest & Late Fees payable	Remarks
Taxpayers having an aggregate turnover of more than Rs. 5 crores in the preceding financial year	Feb, 2020	4th April, 2020	Filing after the extended Due-date shall attract interest @ 9% till 24th June, 2020 No Late fees will be charged till 24th June, 2020 After 24th June, 2020, Interest @ 18% along with Late fees
	March, 2020	5th May, 2020	
	April, 2020	4th June, 2020	
Taxpayers having an aggregate turnover of up to Rs. 5 crores in the preceding financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	Feb, 2020	30th June, 2020	Filing after the Due-date shall attract interest @ 9% till 30th September, 2020 No Late fees will be charged till due-date After 30th September, 2020, Interest @ 18% along with Late fees
	March, 2020	3rd July, 2020	
	April, 2020	6th July, 2020	
	May, 2020	12th September, 2020	
	June, 2020	23rd September, 2020	
	July, 2020	27th September, 2020	
Taxpayers having an aggregate turnover of up to Rs. 5 crores in the preceding financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	Feb, 2020	30th June, 2020	Filing after the Due-date shall attract interest @ 9% till 30th September, 2020 No Late fees will be charged till due-date After 30th September, 2020, Interest @ 18% along with Late fees
	March, 2020	5th July, 2020	
	April, 2020	9th July, 2020	
	May, 2020	15th September, 2020	
	June, 2020	25th September, 2020	
	July, 2020	29th September, 2020	
	August, 2020	3rd October, 2020	

Note :

- It may be noted that due-date for filing GSTR 3B are not extended vide above notifications in all cases. There is only waiver of late fees & interest for certain period as mentioned here in above in table.
- For Registered Person having turnover of more than Rs. 5 crore in preceding financial year, there is no extension of Due-date for filing GSTR 3B beyond May, 2020. Therefore, from June, 2020 onwards the due-date of GSTR 3B will be 20th Day of Succeeding month. For the month of May, 2020 the due date is extended to 27th June, 2020.

CORPORATE LAWS CA. Sumeet Doshi, CA. Premal Gandhi



Securities and Exchange Board of India (Investment Advisers) (Amendment) Regulations, 2020 - Amendment in Regulations 2, 3, 4, 6, 13, 15, 18, 19, 25, 27, Form A and Third Schedule; Substitution of Regulations 7, 8, 22; Insertion of Regulations of 15A and 22A Vide Notification No. SEBI/LAD-NRO/GN/2020/22, Dated 3-7-2020.

Standard operating procedure in the Cases of trading Member/ Clearing Member Leading to Default Vide Circular No. SEBI/HO/ MIRSD/DPIEA/CIR/P/2020/115, Dated 1-7-2020

Relaxation from compliance to Reits and Invits due to the Covid-19 Virus Pandemic Vide Circular No. SEBI/HO/DDHS/ DDHS/CIR/P/2020/114, Dated 1-7-2020.

TRANSFER PRICING CA. Bhavesh Dedhia, CA. Hardik Khowala



Assessing Officer cannot disturb the deduction under Section 80IC of the Act, if Specified Domestic Transactions have been accepted to be at ALP by the TPO – Mahindra & Mahindra Limited, vs. DCIT [TS-320-ITAT-2020(Mum)-TP]

Facts:

- The Assessee claimed deduction u/s 80IC of the Act in respect of Rudrapur unit;
- The transactions reflected in Rudrapur unit were subject matter of TP Assessment under the category of "Specified Domestic Transaction" and were accepted to be at arm's length in TPO's order;
- However, the Assessing Officer in-line with earlier years' approach restricted the deduction under Section 80IC for AY 2013-14 by applying the following formula:-

Total business of the company x Rudrapur unit turn over

Total turnover

Tribunal's Ruling

The Hon'ble Tribunal noted the following:

- For AY 2013-14, the statute provided for determining arm's length price in respect of SDTs unlike earlier years when no such provisions were available;
- Once the profitability disclosed by the Assessee for Rudrapur unit had been accepted to be at arm's length by the TPO, the same cannot be further disturbed by the AO by making some disallowance or by adopting different method of determining the profitability. Further, no adverse findings were recorded by the lower authorities;
- In terms of Section 92CA(4) of the Act, the order of the TPO is binding on the AO which is further been strengthened by

Law Updates

CBDT instruction No.3/2016;

- Accordingly, approach of the AO was rejected and claim of deduction u/s.80IC of the Act made by the Assessee in the return of income was accepted.

GST-ADVANCE RULINGS CA. C. B. Thakar, CA. Madhav Kalani



Case: M/s. Atriwal Amusement Park [2020 (7) TMI 477] (Madhya Pradesh AAR)

Applicant has proposed activity of construction of Water Park and for construction of the same various goods and services will be used. All such goods and services are taxable under GST. The applicant had sought ruling on eligibility of ITC on various goods and services.

The credit eligibility decided by the AAR is as under:

Sl. No.	Particulars	Eligibility	Reason
1	Purchase of Water slides	Eligible	Qualify as apparatus, equipment and machinery
2	Steel and civil structure on which Water slides are installed	Eligible	They are part of the plant and machinery
3	Foundation for Wave pool	Eligible	They are part of the plant and machinery
4	Machine room	Ineligible	It is a civil structure, erected for protecting machine. It is neither a foundation nor civil structure for machine.
5	Goods and services used for area development and preparation of land on which water slides are placed, such as site formation services	Ineligible	Such area development expenditure are part of cost of the land and thus are interminably bound with land - such expenses are liable to be capitalized under the head land, therefore, on account of the specific exclusion of land from the meaning of 'plant and machinery'
6	Construction of swimming pools and wave pools	Ineligible	Subject to its capitalization, credit may not be available
7	Facilities like transformers, sewage treatment plant, Electrical Wiring and Fixtures, Surveillance systems, D.G. Sets, Lifts. Air Handling Units etc.	Ineligible	It is to be considered at par with building or civil structure. The provision of these are either statutory for a building or defines the nature of the building.

CO-OPERATIVE HOUSING SOCIETIES CA. Ramesh Prabhu, CA. Sunil Nagonkar



By an ordinance dated 10th July, 2020, section 73AAA and 73CB of Maharashtra Cooperative Societies Act, 1960 have been amended to state that the existing committee shall continue to function till the new committee is constituted due to the extension granted by the government to conduct the election and further the committee shall get six months time to conduct the election for constitution new committee from the expiry of the extended period by the government.

On 23rd July, 2020, Maharashtra Cabinet has taken a decision to extend the time limit to complete the audit by cooperative societies by 31st Dec, 2020 for the year ended 31st March, 2020 as against the original date of 31st July, 2020 and the General body be held before 31st March, 2020 as against the original date of 30th Sept, 2020 due to covid 19.

MAHARERA

CA. Ashwin Shah, CA. Mahadev Birla



JUDICIAL PRONOUNCEMENT BY APPELLATE TRIBUNAL

Maharashtra Real Estate Appellate Tribunal in recent land mark judgement in the matter of TATA Housing Development Co. Ltd has given major relief to the homebuyers.

There have been various instances of homebuyers left with only allotment letters and could not get Agreement for Sales registered for various reasons.

Allottee has booked apartment in Project named " Gateway Towers" and was holding allotment letter only.

Allotment letter issued by Promoter did not mention date of possession but other documentary evidences like Advertising brochures etc did mention the possession dates.

During the complaint process MahaRera authority dismissed the relief sought by allottee u/s 18 for refund of principal with interest and compensation u/s 18 owing to default on the part of developer for delay in possession of the apartment.

Adjudicating Officer while rejecting the complaint observed that possession date has to be fixed while executing Agreement for Sales and allottee has failed to co-operate for execution of Agreement for Sales.

Allottee preferred Appeal before Appellate Tribunal being aggrieved by the order of the Authority.

Appellate Tribunal held that it is the obligations on the part of Promoter u/s 13 to ensure that Agreement for Sales is duly executed once trigger of 10 % of receipt of consideration is done and allottee cannot be held responsible for the same. Promoter cannot go on collecting more than 10 % of consideration in the absence of execution of Agreement for Sales.

Further, Tribunal held that absence of Agreement for Sales will not take away rights of allottee to claim relief u/s 18 of the Act.

Other documentary evidences viz. Allotment letter, Brochures and advertisement material can be relied upon to decide about breach or violation of Sec 18 of the Act on the part of Promoter.

Further, Tribunal rejected the argument of Promoter that Co - Promoter is not made party to the complaint treating it as technical matter.

This is major relief to home buyers who could not get their Agreement executed for various reasons. The Judgement of Appellate Tribunal support the view taken in Writ Petition No. 2737/2017 in the matter of Neel Kamal Realtors & Others Vs Union of India that RERA is welfare legislation to protect the interest of home buyers who invest their hard earned life saving funds.

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall



Ordinance Suspending Provisions of IBC

On 5th June 2020, an Ordinance titled "Insolvency And Bankruptcy Code (Amendment) Ordinance 2020" for suspension of initiation of fresh bankruptcy proceedings against persons impacted because of COVID-19, for at least six months, upto a maximum of one year. Section 10A has been introduced with a view to provide protection to the corporate persons experiencing

Law Updates

distress on account of unprecedented situation, from being exposed to insolvency proceedings under the Code for upto a period of 1 year and has also sought to restrain the RP from filing applications under section 66(2) of the Code. The ordinance come into force at once.

“10A: Notwithstanding anything contained in sections 7,9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation – For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March 2020.”.

Reason being, it is difficult to find adequate number of resolution applicants to rescue the corporate person who may default in discharge of their debt obligations.

The Ordinance also inserts 66 (3) thereby prohibiting the Resolution Professional from filing an application under 66(2) :- (Fraudulent Trading or wrongful trading)

“ 66 (3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.”

Note : Only 66(2) is suspended 66(1) is still open.

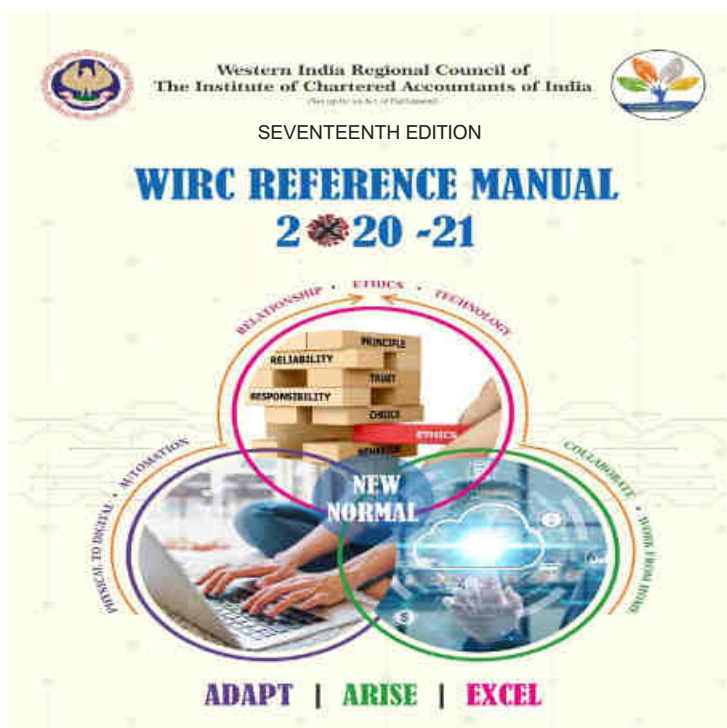
Notification dated 24.03.2020. No. 1076

The Central Government hereby specifies one crore rupees as the minimum amount of default for the purpose of the said section. [earlier the limit was Rs. One lakh]

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Printed and published by Shri Abhay Nath Tiwari, on behalf of Western India Regional Council of The Institute of Chartered Accountants of India and printed at Finesse Graphics & Prints (Pvt) Ltd., 309, Parvati Industrial Estate, Sun mill Compound, Lower Parel, Mumbai – 400 013 and published at Western India Regional Council of the Institute of Chartered Accountants of India, ICAI Tower, Plot No. C-40, G Block, Opp. MCA Academy, Next to Standard Chartered Bank, Bandra Kurla Complex, Bandra East, Mumbai - 400051.

Editor: CA. Lalit Bajaj

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