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CHARTERED ACCOUNTANTS

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DIRECT TAX REVIEW

APRIL 2020

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SUPREME COURT RULINGS

Reason to believe does not empower the AO to re-open assessment after a period of four years.

Facts

The assessee (NDTV) operated news channel and has invested in a number of foreign subsidiaries, primarily in UK and Netherlands. During relevant AY 2008-09, assessee's UK subsidiary (NNPLC) issued step-up coupon bonds amounting to US$100 million, for which the assessee had agreed to furnish corporate guarantee. These bonds were to be redeemed at a premium of 7.5% after the expiry of period of 5 years. However, these bonds were redeemed in advance at a discounted price of US $74.2 million in November, 2009. Subsequently, the assessee was served with a notice under section 148 wherein it was stated that the authority has **reason to believe** that net income chargeable to tax had escaped assessment based on the order of the DRP for subsequent year 2009-10, wherein the DRP had held that though the amount was introduced through its subsidiary companies in Netherlands, it ultimately reached the coffers of assessee through circuitous round tripping and while framing the assessment order, the AO had held that NNPLC had virtually no financial worth and that the subsidiary of the assessee could not have raised such a huge amount without having this assurance from the assessee. Though the AO did not doubt the validity of the transaction, he imposed a guarantee fee and added it to the income of the assessee. Further, the AO also relied on complaints received from a minority shareholder in which it was alleged that the money introduced in NNPLC was shifted to another subsidiary of the assessee in Mauritius from where it was taken to a subsidiary of the assessee in Mumbai and finally to the assessee. The assesse filed objections which were not accepted and were disposed of claiming that there was nondisclosure of material facts by the assessee and the notice would be within limitation since NNPLC was a foreign entity and admittedly a subsidiary of the assessee and the income was being derived through this foreign entity. Hence, the case of the assessee would fall under the 2nd proviso of section 147 and the extended period of 16 years would be applicable. The order passed by the AO was upheld by the High Court. The assessee aggrieved by the order filed the present appeal before the SC.

Ruling

SC held that if the revenue is to rely upon the second proviso and wanted to urge that the limitation of 16 years would apply, then in our opinion in the notice or at least in the reasons in support of the notice, the assessee should have been put to notice that the revenue relies upon the second proviso. The assessee could not be taken by surprise at the stage of rejection of its objections or at the stage of proceedings before the High Court that the notice is to be treated as a notice invoking provisions of the second proviso of section 147 of the Act. Accordingly, it was held that the that the notice issued to the assessee and the supporting reasons did not invoke provisions of the second proviso of section 147 of the Act and therefore at this stage the revenue cannot be permitted to take benefit of the second proviso and all the pending applications were disposed of.

Source: SC, in Njai Kumaw Delhi Television Ltd. vs. DCIT.
Civil Appeal No. 1008 of 2020 dated April 3, 2020

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Purchases made from unregistered dealers cannot be considered as Cash credits.

Facts

The appellant assessee was served with a notice under Section 143(2) by the AO for the AY 1998-99, pursuant to which an assessment order was passed on November 30, 2000. The appeal involves limited challenge to certain addition made under the head "Trading Account" and "Credits" in the assessment order. The AO, while relying on the Balance Sheet and the books of account, took note of the credits amounting to INR. 2.26 lacs. Assessee submitted that the said amount is due to the purchase from the unregistered dealers. Sufficient time and opportunity was granted to prove the correctness and genuineness of his claim, but the assessee completely failed, and therefore, assessee's intention was not accepted and thereafter the AO treated the said amount as "Cash credits" under Section 68 and added the same to the declared income of the assessee stating therein that false/wrong particulars or explanation were submitted with respect to credits shown by assessee. The assessment order passed by the AO was upheld by the CIT-A whereas ITAT passed the order in the favour of the assessee. The appeal was filed before the HC where order passed by the CIT-A was upheld.

Ruling

SC in this appeal takes exception to the final order passed by the HC, Rajasthan whereas the order of ITAT, Jodhpur Bench was upheld. HC in its order stated that it now came to the record that the **appellant/assessee in penalty proceedings which were the outcome of the assessment proceedings offered explanation and caused to produce affidavits and record statements of the concerned unregistered dealers and establish their credentials** and the explanation was also accepted by the CIT-A. It has been noted that the AO during the penalty proceedings recorded statements of 12 unregistered dealers out of 13 and their identity was also duly established. After analyzing the evidence so produced by the appellant/assessee, the CIT-A noted that the Officer had neither doubted the identity of those dealers nor any adverse comments were offered in reference to their version regarding sale of marble slabs by them to the appellant/assessee. As a consequence of this finding, the appellate authority concluded that there was neither any concealment of income nor furnishing of inaccurate particulars of income by the assessee and observations made by the competent forum in penalty proceedings were in the favour of the assessee.

Source: SC, in Basir Ahmed Sisodia. vs. ITO.

Civil Appeal No. 6110 of 2009 dated April 24, 2020

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Denial of exemption from taxability where Revenue Authorities were justified in refusing to acknowledge assessee as a mutual concern

Facts

Assessee Company was incorporated by its fully owned subsidiary after having obtained approval from the Secretariat for Industrial Assistance for undertaking the activities relating to advertising, marketing and promotion for and on behalf of fully owned subsidiary and its franchisees. The Approval was granted subject to certain conditions as regards functioning of assessee, whereby it was

obligated to operate on a non-profit basis on principles of mutuality. However, the assessee company undertook a commercial venture wherein contributions were accepted both from members as well as non-members. The assessee entered into a Tripartite Agreement with fully owned subsidiary and its franchisees, wherein the assessee company received fixed contributions to the extent of 5% of gross sales for the proper conduct of activities. For the relevant AY under consideration, the assessee filed its returns stating the income to be Nil. The AO stated that the appellant Co. does not exist for any social activities nor is it for cultural activities where the idea of profit or trade does not exist and specified that there should not be any profit earning motive in any transaction directly or indirectly and therefore the excess of income over expenditure would be the income liable to tax.

Ruling

HC, New Delhi passed the order in the favour of the Revenue and against the assessee, thereby confirming the orders of the ITAT, CIT-A and the AO wherein the question of taxability of INR. 44.44 lacs being the excess of income over expenditure for the Assessment Year 2001-02, was raised. HC while considering the facts of the case opined that the question of diversion by overriding title was neither framed nor agitated in the appeal memo before the HC or before this Court (except a brief mention in the written submissions), coupled with the fact that neither the ITAT nor the HC has dealt with that plea and that the rectification application raising that ground is still undecided and stated to be pending before the Tribunal, we deem it appropriate to leave it open to the appellant to pursue the rectification application. Further, in view of the afore-stated terms, the questions posed were answered against the appellant and in favour of the Revenue and the appeal stood disposed of upholding the impugned judgment with liberty to the appellant to pursue remedy of rectification, as per law.

Source: SC, in Yum Restaurants Marketing Pvt. Ltd. vs. CIT.
Civil Appeal No. 2847 of 2010 dated April 24, 2020

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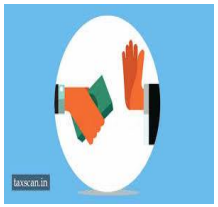
HIGH COURT RULINGS

Setting aside the assessee's writ challenging the recovery and collection of tax where proof of identity of loan depositors, capacity of creditors to advance loans and genuineness of transaction was in serious dispute.

Facts



Assessing Officer had made unexplained cash credit addition under section 68 and raised demand on the assessee. Stay was granted to assessee, subject to payment of 20% of demand in view of CBDT's 2016 Office Memorandum and all the submissions made by the petitioner were considered by the statutory authorities. Assessee by way of instant petition challenged the order of recovery and collection of tax on the ground that the assessment was made on a 'high pitched basis' and therefore, the recovery and collection of tax had to be held in abeyance till the disposal of appeal against the assessment order. Further, assessee had argued that revenue erroneously assumed the 20% condition in CBDT's OM to be mandatory, ignoring financial stringency faced by assessee's and balance of convenience being in favour of assessee's. Further, assessee was unable to produce the proof of identity of loan

depositors, capacity of creditors to advance loans and genuineness of transaction

Ruling

HC in the present case placed reliance on the ruling of **SC in 'LG Electronics (India) Pvt. Ltd. (supra)'**, wherein it was held that *'it is open to the statutory authorities to grant relief to deposit an amount lesser than twenty percent if the facts of the case so warrant. However, on the facts of the present case, as determined by the AO, a prima facie case is not made out and such a relief is not warranted'*. HC further held that the matter is not a case of mechanical reliance on circulars/office memorandums. It is a case where proof of identity of the loan depositors, capacity of the creditors to advance loans and genuineness of transaction is in serious dispute. Though it is open to the statutory authorities to grant relief to deposit an amount lesser than 20% if the facts of the case so warrant. However, on facts of instant case, as determined by the AO, a prima facie case is not made out and such a relief is not warranted to the assessee and consequently merits of the case were dismissed.

Source: HC, Delhi in Jindal ITF Ltd. vs. Union of India.

App No. 2949 of 2020, dated April 08, 2020

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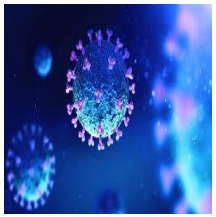
Notices issued COVID-19 pandemic situation in country for recovery of tax dues and attachment of bank accounts during pendency of appeal stands set aside.

Facts

The petitioner assessee was assessed to tax by the authorities and being aggrieved by the order of assessment, appeals were preferred by the petitioner and stay petition was also pending. The revenue



authorities issued recovery notice on March 5, 2020 and received the recovery amount from the concerned banks. In furtherance, the petitioner submitted that usually, when an appeal is preferred, notice of recovery is stayed upon deposit of 20% of the demanded amount. Further, refers to the order of the Hon'ble Supreme Court and submits, *'given the present COVID-19 pandemic in the country, the Hon'ble Supreme Court directed that, no recovery measures to be taken by revenue authorities including Income Tax authorities'.* It was found that notice of demand was issued prior to order of Hon'ble Supreme Court The petitioner further submitted that, unless the petitioners are allowed to operate bank accounts against which the revenue authorities are proceeding, the livelihood of the petitioners guaranteed under Article 19(1)(g) of the Constitution of India would stand infringed.

Ruling

HC in the present case clarified that this order is an interim measure given the COVID-19 pandemic situation in the country. The appellate authority is at liberty to dispose of the appeal of the petitioner in accordance with law, as expeditiously as possible. None of the observations made herein will prejudice any of the parties in the pending appeal. It was further held that the interest of justice would be sub served **by directing banks of petitioners to set apart demanded amount in a separate interest bearing fixed deposit account pending decision of appellate authority and upon bank of petitioners setting aside amount demanded in recovery notice, petitioners were at liberty to operate such bank account.** Hence, the appeal was allowed partially in favour of the assessee.

Source: HC, Calcutta in Banshihari Large Sized Multipurpose Co-op Society Ltd. vs. ITO.
App No. 5348, 5350 & 5351 of 2020, dated April 21, 2020

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No addition in the hands of the firm when all the partners of the firm were identifiable and separately assessed to tax and had shown sufficient income in their personal returns.

Facts

The assessee firm for AY 1999-20 filed a ROI declaring an income of INR.36.92 lacs was selected for scrutiny and assessment was completed section 143(3) and an order dated 26-3-2002 was passed wherein credits in the names of the partners were noticed. The AO held the credits as unproved and made an addition of INR.4 lacs in the hands of the firm under section 68 of the Act relying upon a decision of **Court in CIT, Lucknow vs. Kapur Brothers [1979] 118 ITR 741.** Assessee filed an appeal before CIT-A which was dismissed on the ground that the partners had shown agricultural income in their returns. The assessee held that the partners were identifiable and separately assessed to tax and the firm had explained the source of investment as agricultural income of the partners, therefore, if at all additions were to be made, and then the same had to be made in the hands of the partners and not in the hands of the firm. Assessee filed an appeal before the ITAT who restored the order passed by the AO.

Ruling

HC in the present case relied on **CIT v. Kishorilal Santoshilal [1995] 216 ITR 9 (Raj)** and section 68 of the Act wherein it was held that in a case where a sum is credited in the books of account of a firm from a partner, the assessee firm could discharge its onus by proving three things: (i) identity of the creditor; (ii) creditworthiness of the creditor; and (iii) genuineness of transaction in question. Once the assessee proves all the three things its onus is discharged. **It was also held that the assessee only needs to prove the source of credit entries and is not required to prove the source of the source or the creditor's credit.** The partners have shown the agricultural income in their personal returns of the past years which had been accepted by the department. Further, it was also held that when the source of investment has already been explained and the AO was not satisfied; the addition could have been considered in the hands of the partners and not in the hands of the firm. The burden of proving the source of the credits having been sufficiently explained the addition could not have been made in the hands of the firm in the facts of the present case. Hence the question of law was answered in favour of the assessee.

Source: HC, Allahabad in Kesharwani Sheetalaya Sahsaon. vs. CIT.
App No. 17 of 2007, dated April 24, 2020

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ITAT RULINGS

Condonation in delay in filing of an appeal before CIT-A wherein no incriminating material was found at the time of search.

Facts

A search was conducted at the office premises of the assessee company and a notice under section 153A was issued to which the assessee filed a request that return filed originally under section 139

should be treated as return filed under section 153A. Thereafter, no details were furnished. Accordingly, proceedings were culminated by passing an order under section 153A/144 at INR.2.14 crores (administrative and general expenses to the tune of INR 0.01 cr. and INR 2.13 cr. as unexplained credit section 68). Thereafter, the assessee moved an application before CIT under section 264 which was also disposed of and matter was restored back to the AO with the direction to decide the matter as per Law. The AO in pursuance of the order took up the assessment afresh and noticed that the assessee company during the course of assessment as well as reassessment proceedings has failed to furnish any evidence of the source from which this expenditure was incurred and assessment was completed with the previous additions. Appeal was filed before the CIT-A which was late by 20 days but the delay was condoned. The Revenue challenged the order passed by the Ld. CIT-A in condoning the delay in filing the appeal, in admitting the additional evidence under Rule 46A, in holding that AO could not have proceeded to frame the assessment under section 153A in the absence of any incriminating material and in deleting the addition of INR 0.01 cr. on account of administrative and general expenses.

Ruling

ITAT held that the Ld. CIT-A while deciding the appeal as per revised grounds of appeal has also noted the arguments of the assessee and reproduced the submissions made before the Ld. CIT-A that no addition could be made in AY under appeal as no incriminating material was recovered during the course of search. Therefore, the contention of the Ld. D.R. was not accepted. Further, the reliance was placed on **Hon'ble jurisdictional Delhi HC in the cases of Kabul Chawla and Meeta Gutgutia (supra)** wherein it was stated that *'we do not find any illegality or irregularity in the Order of the Ld. CIT-A in deciding the issue in the favour of the assessee finding that there were no incriminating material unearthed during the course of search so as to make these additions. These additions are, therefore, rightly deleted'.* It was further decided that the Ld. CIT-A was justified in allowing this ground of appeal of assessee and the appeal of Revenue stands dismissed.

Source: ITAT, Delhi Bench F in Alankar Saphire Developers & Ors. vs. DCIT & Ors.

App No. 58 CCH 0379 of 2020, dated April 24, 2020

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Conditional stay on collection/recovery of outstanding demands relating to interest and penalty

Facts

Assessee being a Private Ltd. Co. engaged in the business of construction as a civil contractor, builder and developer and has been granted several contracts by the statutory authorities for the poor and economically weaker sections of the society, under the PM Awas Yojna. The assessee had filed ITR disclosing taxable income of INR 16.09 cr. and the assessment was completed under section 143(3). Subsequently, however, the assessment was reopened and additions of INR 33.93 cr. were made on account of bogus purchases. The total income was thus assessed at INR 50.94 cr. The assessee carried the matter in appeal before the CIT-A but without much success, inasmuch as the addition to the extent of NR 5.09 cr. was deleted but is yet to be given effect to by the AO. All the bank accounts and debtors of the assessee have been attached by

garnishee proceedings under section 226(3). It was also submitted that the assessee is not in a position to pay its labourers, even though there are directions from the Government in view of Covid 19 pandemic, to pay the labourers, support staff and other employees, and to take care of them.

Ruling

ITAT in the present case holds that it has been taken note of the fact that the assessee has already paid his entire tax liability, and in case the assessee is to opt for Vivad se Vishwas Scheme, he will have nothing further to pay. In these circumstances, the legitimate interests of the revenue cannot be prejudiced by our grant of stay on the remaining outstanding dues which are primarily on account of levy of interest, and consequential levies. It was further held that bearing in mind entirety of the case, we deem it fit and proper to grant a stay on collection/recovery of the outstanding demands of INR 2.91 cr. till the disposal of appeal or till the end of six months from the date of this order, whichever is earlier, subject to the conditions. Hence, all the garnishee orders issued by the revenue authorities on the bankers and debtors of the assessee are hereby suspended and no longer in force.

Source: ITAT, Mumbai Bench in Pandhes Infracon P. Ltd. vs. ACIT App No. 184 MUM of 2020, dated April 24, 2020

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Allowance of expenditure incurred on non-compete fees and ice boxes provided to hawkers / dealers.

Facts

The assessee during the year under consideration has acquired running business of various bottlers directly or through amalgamation and has claimed deduction of INR 50.64 cr. as non-compete fee amortized. The non-compete fee was paid to the bottlers for not disclosing the confidential information relating to the business and for not competing in similar line of business in their respective territories for a period of five years. The assessee followed practice of charging amounts to P&L A/c on a pro-rata basis to be fully written off over the period of benefit. The AO relied on the assessment order for AY 1999-20 and disallowed the claim of the assessee on the ground that it was an item of capital expenditure on the ground that the assessee by virtue of non-compete fee, together with consideration for the purchase of the business, had acquired new business and the said payments were thus for the purpose of acquiring income generating business undertaking. The plea of the assessee is that the life of both signages and ice boxes was very short and do not have any enduring benefit to the assessee but expenditure as revenue in nature which was not accepted by the AO. The CIT-A allowed the claim of expenditure on signages as revenue expenditure. However, the expenditure incurred on ice boxes was held to be capital in nature being part of plant & machinery, eligible for depreciation at applicable rates.

Ruling

ITAT placed its reliance on HC decision in **CIT vs Honda Siel Power Products Ltd. (supra)** while deciding the issue of advances made for ownership of tools and dies which remained with the manufacturer, had allowed the same as revenue expenditure as it facilitated the trading operations of the assessee. Further, HC is of the view that the expenditure incurred on ice boxes

will be allowed as deduction in the hands of the assessee. The appeal is further allowed in the favour of the assessee.

Source: ITAT, Mumbai Bench in Pandhes Infracon P. Ltd. vs. ACIT App No. 184 MUM of 2020, dated April 24, 2020

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CIRCULARS & NOTIFICATIONS

Submission for certificate for claiming deductions u/s 80G in respect of donation made by an employee to PM CARES Fund.

The donations made to PM Care Fund are eligible for deduction u/s 80G. In cases where donation is made to the Fund by an employee through his/her employer, the Fund may not be able to issue separate certificate to every such employee in respect of the donation so made, as the contributions made to the Fund are in the Form of a consolidated payment. It is hereby, clarified that the deduction in respect of such donations as indicated above will be inadmissible u/s 80G on the basis of Form 16/Certificate issue by Drawing and Disbursing Officer (DDO)/Employer in this regard.

Source:CBDT Circular No.178/7/2020 dt. April 09, 2020.

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Clarification on order dt. 31-03-2020 and 03-04-2020 issued under section 119 regarding issuance of certificate for lower rate/nil deduction/collection of TDS/TCS u/s 195, 197 and 206C(9).

The matter has been examined by the Board and under mentioned clarifications has been issued:

- **Issue of validity period of lower/nil deduction/collection certificates of FY 2019-20:** For the purpose of Para 2(a) and 2(b) of the order, lower rate/nil deduction/collection certificates will be valid for the particular period of FY 2019-20 and **also for further period from 01-04-2020 to 30-06-2020 for FY 2020-21.** For example, if a certificate was issued for a period from 01-10-2019 to 15-12-2019, the same will be valid for FY 2019-20 for period from 01-10-2019 to 30-06-2020 subject to conditions as mentioned in order dt. 31-03-2020.
- **Issue of threshold/transaction limit for lower/nil deduction/collection certificates of FY 2019-20:** For the purpose of Para 2(a) and 2(b) of the order, threshold/transaction limit mentioned in lower rate/nil deduction/collection certificate issued for FY 2019-20 will be taken fresh **from 01-04-2020 to 30-06-2020 for FY 2020-21** and the amount of threshold limit will be the same as assigned for these certificates for FY 2019-20 subject to conditions as mentioned in order dt. 31-03-2020.
- **Issue of approval and communication of lower/nil deduction/collection certificates: Official emails or other communication may be used by field authorities of Income Tax Department for internal approval for issue of** lower rate/nil deduction/collection certificates and for communication of the same.
- **Issue of new/different TAN mentioned for lower/nil deduction/collection application for FY 2020-21 or revision of rates mentioned in certificates of FY 2019-20:** In case of a payee or buyer/licensee/lessee taxpayer had a certificate for lower deduction for FY 2019-20 and an application has been made for FY 2020-21 for a new/different TAN mentioned in the application,

the relaxation as provided in Para 2(a) and 2(b) of the order shall not apply to such cases and they have to apply afresh procedure. Similarly, if rates of TDS/TCS mentioned in the old certificates are higher and the taxpayer wants revision of rates in view of impact of Covid-19 outbreak on its business, the relaxation as provided in Para 2(a) and 2(b) of the order shall not apply to such cases and they will have to follow the procedure and apply fresh.

Source:CBDT Circular No.178/7/2020 dt. April 09, 2020.

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Deduction of TDS, Consequences of failure to deduct or pay, Clarification regarding short deduction of TDS/TCS due to increase rate of Surcharge.

- The enhanced rates of surcharge will be applicable from April 1, 2019 for FY 2019-20 relevant to AY 2020-21. Thus, every person should compute his tax liability after taking into account the enhanced rates of surcharge. Further, TDS/TCS under various provisions of the Income-tax Act is required to be deducted/ collected after taking into account the enhanced rate of surcharge.
- The deductors /collectors were held to be an assessee in default for short deduction of TDS/short collection of TCS in cases where final transaction was done before laying of the Finance (No.2) Bill, 2019 in the Parliament, i.e. 5th July, 2019. Since the transaction was completed before the rates of enhanced surcharge were announced and the concerned deductee/payee is required to furnish their Income-tax return for the relevant AY, it has been requested that in such cases, deductor or collector should not be held to be an assessee in default under section 201 of the Income-tax Act.
- It is clarified that a person responsible for deduction/collection of tax under any provision of the Income-tax Act will not be considered to be an assessee in default in respect of transactions where:
  - such transaction has been completed and entire payment has been made to the deductee/payee on or before 5th July, 2019 and there is no subsequent transaction between the deductor/collector and the deductee/payee in the financial year 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector;
  - TDS has been deducted or TCS has been collected by such deductor/collector on such sum as per the rates in force as per the provisions prior to the enactment of the Act;
  - such tax deducted or collected has been deposited in the account of CG by the deductor/collector on or before the due date of depositing the same;
  - TDS/TCS statement has been furnished by such person on before the due date of filing of the said statement.
- However, if the person fails to fulfill any of the conditions as laid down above, such a person will, with respect to short deduction/collection, not be eligible for benefit provided under this circular.
- Further, if the deductor/collector has deducted/collected shortfall of tax after 51h of July, 2019 from the transaction(s) made subsequently after the said date, interest, if any, for delay in deduction/collection of such tax shall not be levied.

- The above relaxation does not absolve the deductee/payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax.

The Act provides for increase in rates of surcharge as under:

Income Slab	Surcharge before the Act	Enhanced surcharge as provided by the Act
Less than 50 lakh rupees	Nil	Nil
50 lakh rupees but less than 1 crore rupees	10%	10%
1 crore rupees but less than 2 crore rupees	15%	15%
2 crore rupees but less than 5 crore rupees	15%	25%
5 crore rupees and above	15%	37%

Source:CBDT Circular No. 8/2020 dt. April 13, 2020.

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Clarification in respect of option under section 115BAC:

Section 115BAC, infer alia, provides that a person, being an individual or an HUF having income other than income from business or profession, may exercise option in respect of a PY to be taxed under the said section 115BAC along with his return of income to be furnished under section 139(1) for each year. The concessional rate provided under section 115BAC of the Act is subject to the condition that the total income shall be computed without specified exemption or deduction, set-off of loss and additional depreciation. The clarification by the Board reads as under:

3. In order to avoid the genuine hardship in such cases, the Board, in exercise of powers conferred under section 119 of the Act, hereby clarifies that an employee, having income other than the income under the head "profit and gains of business or profession" and intending to opt for the concessional rate under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 115BAC of the Act. If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act.
4. It is also clarified that the intimation so made to the deductor shall be only for the purposes of TDS during the previous year and cannot be modified during that year. However, the intimation would not amount to exercising option in terms of subsection (5) of section 115BAC of the Act and the person shall be required to do so along with the return to be furnished under sub-section (1) of section 139 of the Act for that previous year. Thus, option at the time of filing of return of income under sub-section (1) of section 139 of the Act could be different from the intimation made by such employee to the employer for that previous year.
5. Further, in case of a person who has income under the head "profit and gains of business or profession" also, the option for taxation under section 115BAC of the Act once exercised for a previous year at the time of filing of return of income under sub-section (1) of section 139 of the Act cannot be changed for

subsequent previous years except in certain circumstances. Accordingly, the above clarification would apply to such person with a modification that the intimation to the employer in his case for subsequent previous years must not deviate from the option under section 115BAC of the Act once exercised in a previous year.

Source: CBDT Circular C1 of 2020 dated April 13, 2020

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Clarifications on provisions of the Direct tax Vivad se Vishwas Act, 2020:

Pursuant to the Budget announcement and representations received from the stakeholders, the Direct tax Vivad se Vishwas Bill, 2020 has been proposed with the official amendments.

- The clarifications vide Circular no. 7 dated March 4, 2020 were, however subject to approval and passing of the Bill in the Parliament and receiving assent of the Hon'ble President of India. The bill has now received the assent and is referred to as The Direct Tax Vivad se Vishwas Act, 2020.
- Questions issued vide the above mentioned circular have been reissued with modifications. Question No. 22 has been modified to reflect the correct intent of the law. It has now been clarified that where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under Vivad se Vishwas. However, where the prosecution has been instituted with respect to an AY, the assessee is not eligible to file declaration for that AY under Vivad se Vishwas, unless the prosecution is compounded before filing the declaration.
- Section 10 and 11 of the Vivad se Vishwas empowers the Board or the CG to issue directions or orders in public interest or to remove difficulties. This circular is such direction/order issued under section 10 and section 11 of the Vivad se Vishwas.

Further, link to modified FAQ's for your reference and detailed information.

Source: CBDT Circular 9 of 2020 dated April 22, 2020

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Order u/s 119 of the I-tax Act for reporting under clause 30C and clause 44 of the Tax Audit Report:

In view of the Global Pandemic due to COVID-19 virus, several representations were received by the Board with regards to difficulty in implementation of reporting requirements under clause 30C and clause 44 of the Form No. 3CD of the Income-tax Rules, 1962 and for deferring the applicability of the above provisions. In furtherance, it has been decided by the Board that **the reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2021.**

Source: CBDT Circular 10 of 2020 dated April 24, 2020

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Sovereign Gold Bond Scheme 2020-21:

The Central Government of India, in consultation with the Reserve Bank of India, has decided to issue Sovereign Gold Bonds herein referred to as Sovereign Gold Bonds Scheme, 2020-21 which shall

come into force on the date of its publication in the Official Gazette.

The Sovereign Gold Bonds will be issued in six tranches from April 2020 to September 2020. The Bonds will be sold through Scheduled Commercial banks (except Small Finance Banks and Payment Banks), Stock Holding Corporation of India Limited (SHCIL), designated post offices, and recognized stock exchanges viz., NSE Ltd. and BSE Ltd. The applicability of the scheme is as under:

1. **Eligibility:** The gold bonds may be held by a Trust, HUFs, Charitable Institution, University or by a person resident in India, being an individual, in his capacity as such individual, or on behalf of minor child, or jointly with any other individual.
2. **Denomination, Subscription limit and Pricing:**
   - The bonds will be issued in denominations of 1 gram of gold or multiples thereof;
   - Minimum limit: The minimum limit of subscription for the Bonds issued shall be of **1 gram**.
   - Maximum limit: The maximum limit of subscription per fiscal year shall be of **4 kg for individuals**, **4 kg for HUF's** and **20 kg for trusts and similar entities** notified by the Government from time to time;
3. **Procedure for making application for subscription to Gold Bonds:** Application for subscription to the bonds shall be made in 'Form A' containing such documents and particulars and shall be accompanied by PAN Number. Acknowledgement in 'Form B' will be issued to the applicant if all requirements of the application are fulfilled.
4. **Date and form of issue of Gold Bonds:** The Gold Bonds shall be issued in the form of a Stock Certificate, as specified in 'Form C'.
5. **Period of subscription:** The Subscription of the Gold Bonds under this Scheme shall be open as specified in Section 8. Provided that the CG may, with prior notice, close the Scheme at any time before the period specified above.
6. **Interest:**
   - The interest on the Gold Bonds shall commence from the date of issue and shall be paid at a **fixed rate of 2.50% p.a. on the nominal value of the bond.**
   - The interest shall be **payable in half-yearly rests** and the last interest shall be payable along with the principal on maturity.
7. **Redemption:**
   - The Gold Bonds shall be repayable on the expiration of 8 years from the date of the issue of the Bonds. Provided that premature redemption of Gold Bonds may be permitted after 5^{th} year from the date of issue of Bonds and such repayments will be made on next interest payment date.
   - On maturity, the Gold Bonds shall be redeemed in Indian Rupees and the redemption price shall be based on simple average of closing price of gold of 999 purity of previous 3 working days, published by the India Bullion and Jewellers Association Limited.
   - The RBI/depository shall inform the investor one month in advance, about the date of maturity of the Bond.

All other terms and conditions specified in the notification of Government of India in the Ministry of Finance (Department of Economic Affairs) vide Number 4(2)-(W&M)/2018 dated the 27th March, 2018 shall apply to the Gold Bond issued under this Scheme. Link to the notification is attached herewith for your reference.

Source: Notification No. F.No.4(4)-B(W&M)/2020 dated April 13, 2020 & Press Release dated April 13, 2020.

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Relaxation guidelines for Small Saving Scheme.

The regulatory provisions to operate the Small Saving Scheme are further relaxed in continuation to the Office Memorandum issued on March 30, 2020. The decision is taken to safeguard the interests of small savings depositors in view of the lockdown in the country due to Covid-19 pandemic.

The relaxations provided are as under:

- The **Public Provident Fund (PPF) account/ Sukanya Samriddhi** Account holders will be **eligible to make a single deposit** each in account(s) opened in his own name and/or account(s) opened in the name of minor(s), as the case may be for **FY 2019-20 till June 30, 2020** subject to the condition of maximum deposit ceilings prescribed in the PPF/SSA scheme provisions.
- For this purpose, the subscriber will have to give an undertaking to the accounts office that "The maximum deposit ceiling applicable to PPF account/ SSA scheme (as per the relevant statute) opened by me in my own name and/or in the name of the minor, as the case may be, will not be breached with this deposit for FY 2019-20. At any stage, if it is found that the ceiling has been breached, then the excess deposit will be treated as irregular and shall be returned to me without any interest."
- The deposit will earn interest from the date of actual deposit and will be calculated as per the provisions of the PPF/SSA Scheme.
- If no deposit was made in the PPF accounts/SSA Scheme maintained by an individual in FY 2019-20, **no default fee for FY 2019-20 will be charged if the account is regularized by making deposit before June 30, 2020.** However, default fee shall be charged for defaults pertaining to FY's other than FY 2019-20.
- For the **purpose of deciding the withdrawal/loan limit** in the PPF account, the **outstanding balance on March 31, 2020 would be considered.**
- The subscribers of PPF account/SSA may continue to make deposit for FY 2020-21 in the usual manner. However, the subscriber of the PPF Account/ SSA Scheme shall deposit the amount for FY 2019-20 and 2020-21 separately in his account.
- **All those PPF subscribers, whose accounts were matured on March 31, 2020** (including the period of one year for extension) and couldn't be extended due to lockdown despite willingness, may **now extend their PPF account by submitting the prescribed form before June 30, 2020.**
- The Department of Post/Banks shall allow the subscribers to submit the duly filled signed scanned copy of prescribed form of extension of PPF account through registered email id. However, the original copy of the same shall be submitted to the concerned account office, once the lockdown is lifted in the country or the concealed area, as the case may be.

Source: Office Memorandum No. F.No.14/6/2020 dated April 11, 2020.

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Order u/s 119 of the I-tax Act regarding submission of Form 15G and 15H for the FY 2020-21

Due to outbreak of pandemic Covid-19 virus, there is a severe disruption in the normal working of almost all sectors of the economy including functioning of Banks, other Institutions etc. Amidst such situation, there can be instances that some eligible persons may not be able to submit the Form 15G and 15H timely to the Banks, Other Institutions even when there is no tax-liability. To mitigate the genuine hardship of such persons, the CBDT issued the following directions/clarifications:

- In case if a person had submitted valid Forms 15G and 15H to the Banks or other Institutions for FY 2019-20, then these forms 15G and 15H **will be valid up to June 30, 2020 for FY 2020-21** also. It is reiterated that the payer who has not deducted tax on the basis of said Forms 15G and 15H, shall require to report details of such payments/credits in the TDS statement for the quarter ended June 30, 2020 in accordance with the provisions of rule 31A(4)(vii) of the Income-tax rules, 1962.

Source: Order No. F.No.275/25/2020 dated April 03, 2020

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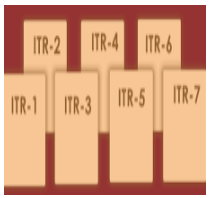
Revision in ITR forms to enable the tax payers to avail the benefits of the timeline extensions provided by the Government due to Covid-19.

In order to facilitate taxpayer to avail full benefits with various timeline extensions up to June 30, 2020 granted by the government, necessary changes have been initiated in the return forms so that taxpayers could take benefits of their transactions carried out during



the period from April 1, 2020 to June 30, 2020 in the return forms for FY 2019-20 (A.Y. 2020-21). Once the revised forms are notified, it will further necessitate the consequential changes in the software and return filing utility. Hence, **the return filing utility after incorporating necessary changes shall be made available by May 31, 2020 to avail benefits for FY 2019-20.**

Source: Press Release dated April 19, 2020

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