



Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED



GST

1. Businesses to self-certify GST annual returns, instead of mandatory audit by CA

GST taxpayers with a turnover of over Rs 5 crore to self-certify their annual return, instead of a mandatory audit certification by chartered accountants. Under the Goods and Services Tax (GST), filing of annual return – GSTR-9/9A – for 2020-21 is mandatory for all registered businesses, barring those with an aggregate annual turnover of up to Rs 2 crore. Besides, taxpayers with a turnover of over Rs 5 crore have to submit a reconciliation statement in form GSTR-9C. This statement was required to be certified after an audit by a chartered accountant, which has been done away with.



COMPANIES ACT

1. Amendment in Incorporation Rules

The rules have been amended w.e.f. Sept 01, 2021, to provide where Central Govt. directs company to change its name and the company fails to change its name or new name, within a period of 3 months from the date of issue of such direction,

- a) the letters 'ORDNC' (Order of Regional Director Not Complied),
- b) the year of passing of the direction,
- c) the serial number and
- d) the CIN shall

become the new name of the company and the Registrar shall accordingly issue a fresh certificate of incorporation in form no. INC-11C.



COMPANIES ACT

2. LS passes IBC amendment bill

Insolvency and Bankruptcy Code (Amendment) Bill 2021, which will replace the earlier ordinance as part of efforts to provide relief to MSMEs adversely impacted by the pandemic, has been approved by Lok Sabha. The bill proposes a new chapter in the IB Code to facilitate the pre-packaged insolvency resolution process for corporate persons that are Micro, Small and Medium Enterprises (MSME). The proposed amendments would enable the Government to notify the threshold of a default not exceeding Rs 1 crore for initiation of the pre-packaged resolution process. The Govt. has already prescribed the threshold of Rs 10 lakh for this purpose.



COMPANIES ACT

3. Cos spending on Covid jabs for individuals to be considered CSR activity

Companies spending funds on COVID vaccination for individuals, other than employees and their families, will be considered as a CSR expenditure. The corporate affairs ministry has issued a clarification in this regard. In March 2020, the ministry had said that spending on COVID-19 would be considered as a Corporate Social Responsibility (CSR) activity.



LLP ACT

1. Govt clears amendments to LLP Act; to decriminalise 12 offences

Continuing the efforts to foster ease of doing business as well as encourage startups, the Government has approved amendments to the Limited Liability Partnership (LLP) Act, including decriminalizing 12 offences under the law. With the proposed amendments, the total number of penal provisions under the LLP Act will be reduced to 22 from 24, compoundable offences will be 7, non-compoundable offences will be 3 and the number of defaults to be dealt under the In-House Adjudication Mechanism (IAM) will be 12. So, a total of 12 offences are to be decriminalized for LLPs. Besides, a new definition for small LLPs will be introduced.

CASE LAWS - INCOME TAX

1. *Sima Agencies v. ITO*

It has been held that where assessee was a clearing and forwarding agent acting as an intermediary between exporter and airlines, it would not be responsible for deduction of tax at source on freight payments made to airlines on behalf of exporters in terms of section 194C.

2. *Sudip Rungta v. Deputy Commissioner of Income Tax, Circle-49, Kol.*

ITAT Kolkata has held that the purpose of computation of exemption of House Rent Allowance, performance bonus does not forms part of 'salary' as defined in clause (h) of rule 2A under section 10(13A) read with rule 2A of the Income-tax Rules, 1962.

CASE LAWS - INCOME TAX

3. ITAT Mumbai

Recently, the Mumbai bench of the Income-tax Appellate Tribunal (Tribunal) has observed that the benefit under the India-Mauritius Double Tax Avoidance Agreement (DTAA) cannot be denied merely because of re-domiciliation from one country to another. Re-domiciliation (Continuation) is a process by which a company moves its place of incorporation from one jurisdiction to another, maintaining the same legal identity.

CASE LAWS - INDIRECT TAX

1. Treated, purified sewage water for industrial use to attract 18% GST: AAR

The Authority for Advance Ruling in the matter of Nagpur Waste Water Management Pvt Ltd, has held that treated and purified sewage water is classified as 'water' under the GST Act and its supply for industrial use would attract an 18% tax.

2. M/s Chariot International Pvt. Ltd. v. Commissioner of Central Tax

The Hon'ble CESTAT, Bengaluru has held that procedural delay in reversing the credit will not disentitle the assessee from claiming refund. It set aside the order passed by the Commissioner (Appeals) disallowing the refund claims of the assessee on the ground that credit reversal in Form GSTR-3B pertains to GST credit and not CENVAT credit.

CASE LAWS - INDIRECT TAX

3. AAR in the case of Aadhya Gold Pvt Ltd

In a major relief for jewellers, the Karnataka Authority for Advance Ruling (AAR) has held that in case of resale of second-hand gold jewellery, jewellers have to pay GST only on the profit earned from such sale. The AAR noted that the GST is payable only on the margin between the sale price and the buying price, as the applicant was not changing the form of the jewellery to bullion and then to new jewellery, but was only cleaning and polishing it without changing its nature and form.



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