

Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX

1. New AIS data not for tax calculation

Breather for tax payer as the CBDT clarified on the alleged discrepancies related to stock sale and purchase data of assesseees on newly-introduced Annual Information System (AIS), that AIS data is not being used for suo moto tax liability calculation as of now. In many cases AIS is showing pledged shares as sale of shares, an entry which will enhance tax liability. The data on sale/purchase of shares is showing the day's closing prices rather than prices at which the sale/purchase was executed. No tax liability computation will be done based on the data.

2. Jeevan Akshay-VII Plan of LIC

The Central Government has specified the Jeevan Akshay-VII Plan of the Life Insurance Corporation of India (LIC), as the annuity plan of the LIC for the purpose of section 80C(2)(xii), which allows deduction of the sum deposited in the annuity plans of the LIC or any other insurer as the Central Government may specify.

INCOME TAX

3. Income tax department exempts e-auctioneers from 1% TDS

The income tax department has exempted e-auctioneers from tax deducted at source (TDS) imposed at the rate of 1% on e-commerce platforms, subject to certain riders. The department issued a circular to clarify this position since the e-auctioneer conducts e-auction services for its clients in its electronic portal and is responsible for the price discovery only which is reported to the client.

However, an e-auctioneer has to satisfy certain conditions to get the exemption such as -- the sale and purchase takes place directly between the buyer and the seller outside the electronic portal maintained by the auctioneer and price discovery only acts as the starting point for negotiation.

GST

1. *Govt Reduces Compliance Burden for GST Taxpayers*

The Ministry of Finance has announced new relaxations for the goods and services tax (GST) taxpayers. The taxpayers with Annual Aggregate Turnover (AATO) up to Rs 5 crore are not required to file the reconciliation statement in Form GSTR-9C for fiscal year (FY) 2020-21 onwards. Ministry also provided relief to taxpayers AATO above Rs 5 crore. Taxpayers AATO above Rs 5 crore can now self-certify the reconciliation statement in Form GSTR-9C for FY 2021-22 onwards, instead of getting it certified by a chartered /cost accountant.

COMPANIES/LLP ACT

1. No further extension for holding AGMs: MCA

The Ministry of Corporate Affairs (MCA) has clarified that deadline for holding annual general meetings (AGMs) due in current year (2021) is extended further. The deadline to conduct AGMs ended on November 30. However, it has decided to allow companies to hold their AGMs through video conferencing or other audio-visual modes till June 30, 2022, given the threat imposed by the new variant. The said extension will also be applicable on extraordinary general meetings (EGMs), in case of any special resolution.

RBI/ FEMA Regulations

1. 20-digit LEI must for cross-border transactions soon

Starting October next year, companies will have to quote the legal entity identifier (LEI) number so as to undertake cross-border transactions of Rs 50 crore or more, the Reserve Bank of India (RBI) has confirmed. The LEI is a 20-digit number used to uniquely identify parties to financial transactions globally to improve the quality and accuracy of financial data systems.

CASE LAWS - INCOME TAX

1. Flying Fabrication v. DCIT

It has been held that the Finance Act 2021 amendment to section 36(1)(va) does not apply to any Assessment Year prior to Assessment Year 2021-22.

2. Logix Buildtech (P.) Ltd. v. ACIT, Circle-15(2), New Delhi

It has been held that all expenses incurred prior to commencement of business are to be treated as pre-operative expenses and expenses incurred which do not form part of work-in-progress like office expenses, salaries, advertising, travelling expenses which are incurred for running of business operations are to be treated as revenue expenditure and allowed as deduction.

CASE LAWS - INCOME TAX

3. Coim India (P.) Ltd. v. DCIT, National e-Assessment Centre, Delhi

It has been held that where TPO made addition in respect of royalty paid by assessee for non-exclusive license to manufacture, sell and use trademark 'Novacote' to its AE on ground that no benefit had accrued to assessee by use of brand 'Novacote', since it would be beyond the domain of TPO to test claim of expenditure incurred by assessee vis a vis business needs of assessee, adjustment in respect of royalty was to be deleted.

4. CIT, Mumbai City-I v. Maharashtra Hybrid Seeds Co. Ltd.

It has been held that provision for foreign travel expenses payable, as per binding contract, in respect of dealers/distributors who have achieved sales targets as of 31st March, is not a contingent liability and is deductible u/s 37(1)

CASE LAWS - INCOME TAX

5. Kartik Vijaysinh Sonavane v. DCIT

It has been held, the assessing officer to allow TDS credit to employee even if TDS isn't deposited by employer. Section 205 bars the Department from denying to employee-assessee the credit of TDS deducted by employer and reflected on the IT portal and also from raising direct demand for the same on employee-assessee even if the employer has not deposited the TDS deducted and has not issued Form 16.

6. Manoj Pati v. ACIT - [2021] 132 taxmann.com 284 (Kolkata - Trib.)

It was held that where land was purchased by company in name of company and director for commercial expediency and benefit of company and it was not a case that any loan was given to director, addition in his hands invoking provision of section 2(22)(e) was unjustified.

CASE LAWS - INDIRECT TAX

1. AAR on GST on notice pay, group insurance, phone bill

The Authority for Advance Ruling has held that GST will be applicable on employee recoveries such as notice pay, group insurance and telephone bill. The ruling said that as in the case of notice pay, the company is actually "providing a service" to an employee and hence GST should be applied on that. Under the GST framework, tax is levied on any activity that is viewed as supply of service-whether directly or deemed supply.

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