

Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

*Supreme Court
extended the
exclusion period
amid Covid -19*

The Supreme Court restores original suo moto order on limitation and directs inter alia exclusion of period from 15 March 2020 till 28 February 2022 for purposes of limitation. Accordingly, the period from 15 March 2020 till 28 February 2022 shall stand excluded from the period of limitation prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

INCOME TAX

1. *No exemption for ULIPs in premium exceeds Rs 2.5 lakhs*

The Finance Act, 2021 has inserted Fourth and Fifth Proviso to Section 10(10D) to provide that no exemption shall be available in respect of ULIPs issued on or after the 01-02-2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds Rs. 2,50,000. Now, the CBDT has issued clarification for manner of calculation of income tax on amount received from ULIP vide circular no. 2 of 2022 dated 19th January 2022.

2. *Extension for filing returns*

The CBDT has decided to extend the due dates for filing income tax returns and various audit reports for the Assessment Year 2021-22. The extended due date for filing various audit reports for the Previous Year 2020-21 is 15-02-2022, and the extended due date for filing of ITR is 15-03-2022.

COMPANIES/ LLP ACT

1. MCA increases additional fee to upto 18 times of normal filing fee

MCA has notified Higher Additional fee of upto 18 times (as against existing 12 times) the normal fee for late filing, applicable w.e.f. 01/07/2022 as below:-

| Filing Delay period | Additional Fee (multiple of normal fees) | Higher additional fee in certain cases (multiple of normal fees) |
|---|--|--|
| upto 15 days (Forms u/s 139 and 157) | One time | - |
| 16-30 days (Forms u/s 139 and 157) and upto 30 days (remaining forms) | Two times | Three times |
| 31-60 days | Four times | Six times |
| 61-90 days | Six times | Nine times |
| 91-180 days | Ten times | Fifteen times |
| 181 days and above | Twelve times | Eighteen times |

...Contd.

COMPANIES/ LLP ACT

.....Contd.

In the case of e form INC-22, or e-form PAS-3, higher additional fees shall be payable, if there is a delay in filing thereof on two or more occasions within a period of 365 days

Also, the additional fee shall not be applicable wherever the higher additional fee is payable/ applicable.

LABOUR LAWS

1. *Teleconsultation Services through e-Sanjeevani*

The ESIC is facilitating medical consultation services to the beneficiaries of ESIC members, free of cost, from anywhere, through the eSanjeevani App.

The employer has to inform to all employees to download eSanjeevani App or visit <https://eSanjeevani.in> to consult to doctor online and seek appointment with the ESI doctors. In the present situation of COVID, this tool shall also prove highly beneficial for seeking health advice without requiring the beneficiary to travel to an ESI Health Centre in person.

CASE LAWS - INCOME TAX

1. *Maksat Technologies (P) Ltd. v. Dy. CIT (Delhi) 191 ITD*

It has been held that where centralized processing center processed return of the assessee and disallowance was made on account of sum received from employees as contribution to provident fund to extent not credited to employee's account on or before due date prescribed under respective law, since employees provident fund contribution was deposited before due date of filing of return of income, it could not be said to be incorrect claim and thus, adjustment proposed by centralized processing center was not sustainable.

2. *ACIT v. Ms. Farah Khan (Mum)*

It has been held that where assessee, a professional choreographer, used flats owned by her as office-cum-residence, since flat as well as furniture was owned by assessee and was used for professional purpose, proportionate depreciation claimed by the assessee for specified part used for professional purpose was to be allowed.

CASE LAWS - INCOME TAX

3. *Convergys India Services (P.) Ltd. v. ACIT*

It has been held that since forex gain/loss is a direct outcome of 'international transaction' with an AE, it partakes of same character as that of international transaction and, hence, it is an integral part of 'transfer price' for any transaction and by default, an operating item

4. *CIT, Chennai Vs United India Insurance Co. Ltd*

It has been held by the Madras High Court that when where an activity is not pervaded by profit motive, but is carried on primarily for serving the charitable purpose, it would not be correct to describe it as an activity for profit, though it may be carried on in advancement of the charitable purpose of the trust or institution.

CASE LAWS - INCOME TAX

5. *Volkswagen Finance Pvt Ltd vs. ITO (ITAT Mumbai)*

It has been held that the payment by an Indian company to a foreign celebrity (Nicholas Cage) for an appearance by him in Dubai, UAE, in a product launch event for promoting the business of the assessee in India, is taxable as arising from a "business connection" and also under Article 23(1) of India-USA tax treaty.

6. *DCIT Vs. M/s AVL India Pvt. Ltd.*

It has been held that the assessing officer cannot sit in the chair of businessman and take decision on his behalf. The observation of the Assessing Officer in the assessment order nowhere leads to any defect or error in the books of the accounts on the basis of which the books could be rejected

CASE LAWS - INDIRECT TAX

1. *Reg exclusion of period for rejecting refund application*

The Bombay High Court has quashed an order by the GST authorities that had rejected the refund claim of an assessee because it was filed after two years, a time limit set by the rules. This was done since the authorities have not taken into cognizance the earlier Supreme Court verdict that excluded the period from March 15, 2020 and October 02, 2021 from the time limit due to Covid.

2. *Gautam Industries Vs Commissioner of C.E. & S.T (CESTAT Chandigarh)*

It was held that interest at the rate of 4.12% is payable on excise duty deposited under protest during investigation.

CASE LAWS - INDIRECT TAX

3. *Gujrat AAR*

The Gujarat Authority for Advance Ruling (AAR) has held that in healthcare services, where multi-super specialty hospitals take a lump-sum amount in the form of membership to provide services to their family, would not attract GST.

4. *AAAR in the case of Premier Sales Promotion (P) Ltd.*

The Appellate Authority for Advance Ruling (AAAR) has held that the voucher is an instrument recognised by Reserve Bank of India and does not qualify as money unless it is redeemed. The vouchers are purchased by appellant by paying consideration and the same are sold to clients for consideration. Therefore, it was upheld that vouchers would qualify as movable property and to be considered as goods.

Fortnightly Update No : 372nd

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