

Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

COMPANIES/ LLP ACT

1. *New CSR 2 Filing Requirement*

The MCA has notified Companies (Accounts) Amendment Rules, 2022, mandating the companies to file CSR 2

The newly introduced form CSR-2 (report on Corporate Social Responsibility) is required to be filed by those entities which fall under the provisions of Section 135 of the Companies Act, 2013, i.e., the companies which are required to comply with the provisions of Corporate Social Responsibility (CSR).

Due date of Form CSR-2:

- i. F. Y. 2020-21: separately on or before 31st March, 2022**
- ii. F. Y. 2021-22 onwards: as an addendum to form AOC-4 (due date of AOC-4)**

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2. *Limited Liability Partnership (Amendment) Rules, 2022*

Ministry of Corporate Affairs (MCA) has notified the Limited Liability Partnership (Amendment) Rules, 2022 vide a Notification dated 11th February 2022 by amending the Limited Liability Partnership Rules, 2009.

The LLP (Amendment) Rules, 2022 will take effect on 1st April 2022.

New rules are added concerning Allotment of a new name to existing LLP under Section 17 (3), Adjudication of penalties, and Appeal against order of adjudicating officer, Registration of appeal, and Disposal of appeal by Regional Director. Further, the fee norms for LLP have been revised and instead of additional fee of Rs 100/- per day on delayed filing, a slab of days has been prescribed.

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3. *Relaxation on levy of additional fee on delay in filing of AOC & MGT 7*

The Ministry of Corporate Affairs has further provided relaxation to file e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL/Non- XBRL for FY 20-21 upto March 15, 2022 & MGT-7/ MGT-7A upto March 31, 2022, without additional filing fee.

INDIRECT TAX

1. *E-invoice limit reduced from 50 cr to 20 cr*

E-invoicing has now been made mandatory for Turnover of more than Rs 20 crore with effect from 1st April 2022 as per the notification issued by CBIC on Feb 24, 2022. Currently, the limit for generating the E-Invoice is Rs 50 crore and more.

INDIRECT TAX

2. *CBIC announces Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022*

The Central Board of Indirect Taxes and Customs (CBIC) has notified the Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022 (Regulation), laying down guidelines for the conversion of Shipping Bills or Bill of Export. The key features of the Regulation that will apply prospectively from 22 February 2022 are listed below

- Enables conversion, inter alia, relates to the amendment of the declaration made in the Shipping Bill or Bill of Export to any other one or more instrument-based scheme, after the goods have been exported, e.g. Drawback, Refund of Duties and Taxes on Exported Products (RoDTEP), export incentive schemes, etc.

INDIRECT TAX

- The application needs to be filed with the jurisdictional Commissioner of Customs at the port of export within one year from the date of clearance.
- Decision on the application to be taken possibly within 30 days from the date of filing, subject to fulfillment of conditions, like:
 - No benefit is availed of the instrument-based scheme;
 - Prescribed conditions and obligation of the instrument are met;
 - No non-compliance or contravention relating to the filing of Shipping Bill or Bill of Export;
- Shipping Bill or Bill of Export relates to an instrument-based scheme

CASE LAWS - INCOME TAX

1. *Radhika Roy / Prannoy Roy vs. DCIT (ITAT Delhi)*

It was held that assessee's purchase of shares of NDTV Ltd at Rs 4 per share from RRPR Holdings Pvt Ltd when the market price of the share was Rs 140 is a benefit taxable u/s 56 (2)(vii). The argument that as it is a transaction between closely related parties, there is no motive of tax evasion & s. 56 (2) does not apply is not acceptable. The assessee has failed to explain by credible evidence any reason of buying shares of the company at Rs. 4 per share when the quoted price was Rs. 140 & so the assessee cannot say that there was no motive of tax evasion. Even otherwise, s. 56 (2) deems such differences/receipts as income.

CASE LAWS - INCOME TAX

2. *Pankil Garg vs. PCIT (ITAT Chandigarh)*

It has been held that the stand of the Dept that in the case of an individual, a "HUF" is not a "relative" and that while a gift by the individual to the HUF is exempt, a gift from the HUF to its member is taxable u/s 56(2)(vii) is not correct. S. 56 (2) (vii) provides that the members of the 'HUF' are to be taken as "relatives". The converse is not provided because on first principles, amounts received by a member from the 'HUF' cannot be said to be income of the member eligible to taxation.

CASE LAWS - INCOME TAX

3. Exception or exempting provision in taxing statute should be construed strictly: Supreme Court

The Apex Court has held that an exception or exempting provision in a taxing statute should be construed strictly and it is not open to the court to ignore the conditions prescribed in the policy and notifications issued in that regard. It further said the exemption notification should be given meaning according to the legislative intendment and such statutory provisions have to be interpreted in light of the “words employed in them”.

CASE LAWS - INDIRECT TAX

1. *AAR - No GST Exemption on online medical courses even if mandated by Medical Council*

The Karnataka Authority for Advance Ruling (AAR) has held that the online courses specifically targeted at doctors and mandated by the Medical Council should face Goods and Services Tax (GST), complicating the question of the taxation of education and even medical services. Both medical care and education are outside the gamut of the GST framework.

CASE LAWS - INDIRECT TAX

2. *Adiraj Manpower Services Pvt. Ltd. v. Commissioner of Central Excise Pune II*

The Supreme Court has held that the contract between a taxpayer and its customer is not in the nature of job-work but a contract for provision of labour. Consequently, the availment of exemption from service tax is erroneous. The Supreme Court has also laid down the salient features of job work vis-à-vis the supply of contract labour.

- a) Nature of the process of work that must be carried out
- b) Provisions for maintaining the (a) quality of work, (b) nature of facilities used, or (c) infrastructure deployed to generate the work
- c) Delivery schedules
- d) Specifications regarding the work to be performed
- e) Ensured consequences in the event of a breach of contractual obligation

It further held that the contract should be read as a composite whole and mere provision for payment on a 'piece rate' basis does not change the contract's essence.

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