

# Just 5 Minutes

TAXCON<sup>TM</sup> INDIA PRIVATE LIMITED

# INCOME TAX ACT

## 1. MNCs under I-T lens over ESOPs to staff in India

Multinationals that allotted employee stock options (ESOPs) to their India employees have come under the taxman's lens for tax applicability on these transactions. The tax department is questioning the Indian arms of multinationals on withholding tax when they make such payments to their parents.

## 2. PAN-Aadhaar Linking Reg.

The fee payment for PAN-Aadhaar Linkage needs to be made through e-Pay Tax functionality available on NSDL (now Protean) Portal. The prescribed fee must be paid under Major Head 0021 and Minor Head 500 and AY should be 2023-24 using Challan ITNS 280. The payment made at NSDL (now Protean) takes few days to reflect at the e-Filing portal, so taxpayer is advised to attempt raising PAN-Aadhaar linking request after 4-5 days of making payment.

# GST

## 2. Clarification regarding payment of tax before issue of SCN

The CBIC has issued instruction no. 01/2022-23 on dated 25.05.2022, where it has been clarified that taxpayers can pay GST in DRC-03 voluntarily before issuing show cause notice (SCN) of recovery during the course of search to save the penalty imposable due to search but GST officers cannot force to pay GST during search or inspection or investigation

## 3. Late fee for GSTR 4 waived upto June 30, 2022

Late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2021-22 under section 47 of the CGST Act has been waived for the period from the May 01, 2022 to June 30, 2022.

# COMPANIES ACT

## 1. Extension for filing LLP forms

Due to many glitches faced by users in filing forms on new LLP Portal launched by Ministry in February 2022, the Ministry has provided relaxation for all LLP Filings and accordingly, the LLPs can file all event-based e-forms due from February 25, 2022 to May 31, 2022 upto June 30, 2022 without additional filing fee.

The due date for filing Form 11 - Annual Return of LLP which was due for filing by May 30, 2022, can also be filed by June 30, 2022 without any additional filing fee.

## 2. Declaration for merger with company incorporated in country sharing borders with India

MCA has notified amendment in Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, which requires a company or a body corporate, which has been incorporated in a country that shares a land border with India, to furnish a declaration in Form CAA 16, stating that if they need prior approval from the Government of India under FEMA NDI Rules, to make an application for merger or demerger with an Indian company

# LABOUR LAWS

## 1. Delhi Minimum Wages, w.e.f 01.04.2022

The minimum wages have been revised in Delhi w.e.f. April 01, 2022 and the revised wages are as below:-

Class of Employment	Class of workers	Wages	VDA/ Month	Total/ Month
Unskilled	NA	16064	442	16506
Semi-skilled	NA	17693	494	18187
Skilled	NA	19473	546	20019
Clerical & Supervisory Staff	Non-Matriculates	17693	494	18187
Clerical & Supervisory Staff	Matriculates but not graduates	19473	546	20019
Clerical & Supervisory Staff	Graduates & above	21184	572	21756

## CASE LAWS - INCOME TAX

1. Ingenico International India Pvt. Ltd. Vs JCIT

The Delhi High Court, while disposing off the writ petition filed by the taxpayer, held that where due to technical difficulties, the Central Processing Centre (CPC) is unable to grant interest under section 244A of the Income-tax Act, 1961 upto the date of issuance of refund, the Tax Officer (TO) will pass a manual order. Upon uploading of the order on the Income-tax Business Application (ITBA) portal, the CPC will issue the refund.

3. ITO vs. Raj Kumar Parashar (ITAT Jaipur)

It has been held that where the assessee has invested the entire sale consideration in new house property, the capital gains are exempt u/s 54F. The Assessing Officer cannot apply Sec. 50C and treat the stamp duty valuation as the consideration and assess the difference between the stamp duty valuation and the actual valuation to capital gains.

## CASE LAWS - INDIRECT TAX

1. AAR in the matter of Saffron Art

The Maharashtra bench of GST- Authority for Advance Ruling has recently examined and held that second-hand goods be it antique watches, books, jewellery or for that matter even paintings, fall within the ambit of the goods and services tax (GST). In a ruling that favours the applicant, it held that GST at 12% will be payable on the differential price.

2. Sanchita Kundu & Anr. Vs. Assistant Commissioner of State Tax, Bureau of Investigation, South Bengal & Ors.

The Calcutta High Court Bench has held that the Input Tax Credit (ITC) cannot be denied on genuine transactions with suppliers for whom GST registration was cancelled after the transaction.

## CASE LAWS - INDIRECT TAX

### 3. Ayana Pharma Ltd. v. Union of India

The Honorable High Court observed that as per Rule 97A of CGST Rules, any reference to electronic filing of an application would include manual filing. Since rule 97A contains a non-obstante clause, it is intended to override rules 89 to 97 of the CGST Rules. Therefore, the rejection of refund claim on the ground that the same was not filed online but manually was not sustainable and liable to be set aside. Also, the Authority concerned was directed to treat manual application as application for refund and pass reasoned order after hearing the writ applicant.

### 4. AAR in the case of Mother Earth Environ Tech Pvt. Ltd.

The Karnataka Authority for Advance Ruling has held that land filling pit used for storing hazardous waste is not eligible for input tax credit since it is a civil structure and not a plant & machinery



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