

Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX ACT

1. *New facilities on filing portal*

- a) The e-Filing website now offers e-Pay Tax service through two new Authorized Banks namely Kotak Mahindra Bank and Federal Bank in both pre-login and post-login mode. These two banks are currently accepting payments for taxes in both Over the Counter and Net Banking modes. Tax payment through NSDL website (Protean) is also available to taxpayers as per the existing process.

- a) E-filing of updated ITR u/s 139(8A) has also been enabled for ITR 2 & 3 for AY 2020-21 and AY 2021-22 using Excel utility. Once Updated ITR is prepared, you can upload the XML/JSON by logging into Income-tax website.

INCOME TAX ACT

2. *New Form 8A – Application to Tribunal for identical issues*

The Finance Act, 2022 has inserted a new section 158AB which provides for making an application before the Tribunal and High Court to avoid the filing of an appeal by revenue on identical issues. The CBDT has notified Form 8A to make such an application.

GST

1. GST lens on bank arms using parent's brand name, log or tagline

Some top financial institutions have come under the taxman's lens for goods and services tax (GST) on royalty from subsidiaries for use of the parent's brand name, logo, or tagline. The tax department has told the banks in recent meetings that if a mutual fund unit uses any brand components, it should pay royalty or similar fees to the parent and 18% GST has to be paid on that amount, said people with knowledge of the matter.

2. *GST is not applicable on perks to employees, clarifies CBIC*

The CBIC in response to clarifications sought has issued circular on the 'taxability of perquisites' to employees and clarified that a wide range of benefits such as free beverages, canteen facilities, free parking space, journal subscriptions or even group medical insurance provided by business entities to its employees in terms of a contractual agreement between the two, will not be subject to Goods and Services Tax (GST).

FOREIGN EXCHANGE REGULATIONS

1. *Amendment in FCRA*

The Ministry of Home Affairs has made changes in Foreign Contribution Regulations Act (FCRA) by amending the Rules, with effect from July 01, 2022. The summary of amendments are as below:-

- a) Receipt of foreign contribution from foreign relatives to be intimated in FC-1 if it exceeds Rs. 10 Lakh (current limit is Rs. 1 Lakh). Such intimation in shall be made within a period of 3 months (presently 30 days)
- b) Filing of Form FC-6D within 45 days instead of 15 days for FCRA registered entities
- c) Filing of Form FC-6D within 45 days instead of 15 days for entities with prior FCRA permission
- d) Requirement of Quarterly publication of FC receipts on website dispensed with
- e) Time limit for filing Forms FC-6A to FC-6E (change in details of entity) increased to 45 days from 15 days

FOREIGN EXCHANGE REGULATIONS

2. Deadline for exporters to submit application for pending dues extended

The last date for exporters to submit online applications to claim their pending dues under export promotion scheme MEIS has been extended till August 31, 2022. The last date for submitting applications under MEIS (merchandise exports from India scheme), for exports made in the period September 1, 2020 to December 31, 2020 has been extended up to August 31, 2022.

CASE LAWS - INCOME TAX

1. *Abhay Kumar Mittal Vs. DCIT, 8th Feb.2022, (ITAT-Delhi)*

It has been held that as far as clubbing of income is concerned, assessee's wife having repaid the loan taken by her from the assessee (husband) for purchasing the house out of her own resources and declared her rental income received from the assessee for the house in her return which has been accepted by the revenue, said return income cannot be clubbed in the hands of the assessee u/s 64. Further for exemption u/s 10(13A), contention of AO that husband cannot pay rent to the wife is devoid of any legal implication supporting any such contention. It was held that the assessee was entitled to exemption u/s 10(13A)

2. *Prafful Industries (P) Ltd vs. DCIT (ITAT Delhi).*

It has been held that the primary burden of proof is on the Revenue to show that the assessee is guilty of concealment/ furnishing inaccurate particulars. Making an incorrect claim does not tantamount to furnishing inaccurate particulars by any stretch of imagination. Wrong claim of depreciation by crediting capital subsidy to reserves instead of reducing from actual cost/ WDV does not attract s. 271(1) (c) penalty.

CASE LAWS - INCOME TAX

3. *Calance Software Pvt. Ltd vs. DCIT (ITAT Delhi)*

It has been held that CBDT's Instruction No. 3/2003 is binding on the AO. Consequently, the ALP of international transactions where the quantum is less than Rs. 5 crore has to be determined by the AO and cannot be referred to the TPO. If such reference is made, it is invalid and the extended time for completing the assessment is not available to the AO. The assessment is void as it is time-barred

4. *DCIT vs. Alcon Biosciences P Ltd (ITAT Mumbai)*

It has been held that a Pvt. Ltd. co issued shares at an exorbitant premium is irrelevant if the assessee has proved the genuineness of the transaction. If the assessee has furnished necessary evidence to prove the identity of the share applicants and their PAN details, the department is free to proceed to reopen the individual assessments of the share applicants but it cannot be regarded as undisclosed income of the assessee

CASE LAWS - INDIRECT TAX

1. *Saisanket Enterprise v. AAR, Commissioner Commercial Tax, Madhya Pradesh*

It has been held that no advance ruling can be sought for determining GST rate after receipt of show cause notice from department for payment of GST at a particular rate on relevant activity.

2. *AAAR in the matter of Platinum Motocorp LLP*

It has been held by the AAAR Haryana that ITC is not available on demo cars being not purchased with intention of further supply. It further held that ITC on repair/ insurance/ maintenance used in respect of said vehicles also cannot be allowed.

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