

**Just 5 Minutes**

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

### *Apex Court on Benami Act*

Supreme Court ruled the amended Benami Act, which came into effect on November 1, 2016, applied only prospectively, besides declaring "unconstitutional" one of the provisions of the law dealing with a three-year jail term and a penalty.

### *Hotels not to charge Service Charges*

The Central Consumer Protection Authority (CCPA) has issued guidelines for preventing unfair trade practices and violation of consumer rights with regard to levying of service charge in hotels and restaurants. Further the Government has issued press release to inform that no collection of service charge shall be done by any other name. no hotel or restaurant shall force a consumer to pay service charge and shall clearly inform the consumer that service charge is voluntary, optional and at consumer's discretion

### 1. *Charitable organizations to keep 10 years records*

The CBDT has notified new Rule 17AA prescribing books and other documents to be kept and maintained by entities under clause 10(23C) or section 12A. The books of accounts and other documents may be kept in written form or in electronic form or in digital form. They shall be kept and maintained for a period of 10 years from the end of relevant year.

### 2. *Form 29D for claiming refund of TDS u/s 195*

The Finance Act 2022 inserted a new Section 239A providing that a taxpayer may file an application before the AO to get the refund of tax deducted under section 195 on any income (other than interest) if no tax deduction was required. Now, the CBDT has notified that such application shall be filed in Form no. 29D along with copy of an agreement or other arrangement referred to in section 239A.

### 3. *Withdrawal of exemption to Non-Resident*

The CBDT has notified that the provisions of section 206C(1G) i.e. provides for the collection of tax at source (TCS) from remittance under Liberalized Remittance Scheme (LRS) and the sale of an overseas tour package shall not apply to a person (being a buyer) who is a non-resident and who does not have a permanent establishment in India. The CBDT has withdrawn its earlier notification wherein exemption was provided to NR who is visiting India.

### 4. *Time-limit extended for furnishing Form 67 for claiming Foreign Tax Credit*

The CBDT has amended Rule 128 to provide that Form 67 can be furnished on or before the end of assessment year where return of income for such assessment year has been furnished within the time specified under Section 139(1) or Section 139(4). In case of updated return, Form shall be filed on or before filing of such updated return.

## COMPANIES ACT

### 1. *Physical verification of registered office by ROC*

The Ministry of Corporate Affairs has amended the Companies (Incorporation) Rules, 2022 and accordingly has made provision for physical verification of registered office by ROC.

ROC has to prepare a Physical Verification Report of the Registered Office of the company in the prescribed format, attach a Photograph and other documentary evidence of the Registered Office of the company to his report. ROC may also ask for independent witnesses of the locality and also seek assistance of the local police for such verification.

Corporates need to ensure the following at the registered office:-

1. Name Board is affixed outside office
2. Office infrastructure is there
3. Staff and people must aware
4. Statutory Register and records are there in Registered Office

## 1. *Overseas Investment Rules and Regulations announced – Key highlights*

The Government of India, in consultation with the RBI, has notified the Foreign Exchange Management (Overseas Investment) Rules, 2022 (ODI Rules) and Foreign Exchange Management (Overseas Investment) Regulations, 2022 (ODI Regulations). The RBI has also issued the Foreign Exchange Management (Overseas Investment) Directions, 2022, providing detailed operational instructions (ODI Directions) (jointly referred as [ODI Guidelines]).

The ODI Guidelines will govern investment in overseas entities or immovable property outside India by persons resident in India and will replace the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 and the Foreign Exchange Management (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015.

## CASE LAWS - INCOME TAX

1. *Janpaksh Printing & Publishing v. Income-tax Officer*

It has been held that where assessee's case was selected for limited scrutiny on ground that it claimed higher expenditure under head other expenses (OE) in profit and loss account as compared to preceding year, since certain direct trading expenditure were wrongly included in OE, same were to be excluded from purview of limited scrutiny.

2. *McCain Foods India (P.) Ltd. v. ACIT/DCIT*

It has been held that where amount pertaining to intra group services had been disallowed under section 40(a)(i) and added back to total income, disallowing same by treating ALP of said payment as Nil and adding same again to total income, certainly would lead to a situation of taxing same amount twice.

## CASE LAWS - INCOME TAX

### 3. *ACIT v. National Agricultural Co-operative Marketing Federation of India*

It has been held that where bills for prior period expenditures incurred by assessee were received during relevant year, liability towards said expenditure had crystallized during year and, thus, such prior period expenditure was to be allowed under section 37(1) during year.



## CASE LAWS - INDIRECT TAX

1. *M/s Louis Dreyfus Company India Private Limited v. Union of India*

The Gujrat High Court, replying upon the decision of the Hon'ble Supreme Court in the Mohit Minerals Case, has directed the department to grant refund of Integrated Goods and Services Tax ("IGST") already paid by the assessee on the amount of ocean freight charges.

2. *Drs Wood Products v. State of U.P*

It has been held that where without relying upon any report or any inquiry, show cause notice issued to petitioner alleging that 'taxpayer was found non-functioning/non-existing at principal place of business' and application for revocation of cancellation of registration was rejected without recording any reasons; registration of petitioner was directed to be renewed forthwith; petitioner was harassed therefore, State Government was liable to pay cost of Rs. 50,000 to petitioner.

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