

# Just 5 Minutes

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

# INCOME TAX ACT

## *1. Reg requirement of quoting PAN*

The CBDT has inserted a new proviso to Rule 114BB to provide that requirement of quoting PAN or Aadhaar on deposit/withdrawal of cash aggregating to Rs. 20 lakh or more or opening a current/cash credit account shall not apply to a person who is the Central Government, the State Government or the Consular Office.

## *2. Range of e-pay tax facility added on portal*

The income tax e-Filing website now offers e-Pay Tax service with wide range of modes for payment of taxes including Net Banking, Debit card, Pay at Bank Counter (Over the Counter), RTGS/NEFT and Payment Gateway (with sub-payment modes as Net Banking, Debit Card, Credit Card and UPI). Under RTGS/NEFT mode, payment of taxes can be made through any bank that offers this service. Tax payment through Protean website [NSDL] is also available to taxpayers as per the existing process.

# COMPANIES ACT

## 1. *Certification by Auditor – DPT 3*

MCA vide notification has modified the Companies (Acceptance of Deposits) Rules, 2014 and as per the amended rules,

- The auditor has to submit a declaration w.r.t deposits with E-form DPT-3.
- The formats of DPT-3 and DPT-4 have been revised for enhanced disclosures.

## 2. *MCA notifies revised forms for Director's KYC*

MCA vide notification has notified Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2022 and has revised DIR-3 KYC and DIR-3-KYC web forms by adding a new entry in the form capturing the 'jurisdictional police station' in the address details of directors.

# COMPANIES ACT

## 3. *Strike off provisions for not having proper registered offices*

MCA vide notification has notified the Companies (Removal of Name of Companies from the Registrar of Companies Second Amendment Rules, 2022) and as per the amended rules,

- Now Registrar of the Company (ROC) can issue notice for removal of name of Company if it finds that a company is not carrying any business or operation from the registered office as revealed during the physical verification of registered office of Company carried out u/s 12(9).
- Accordingly, form STK-5, and Form STK 5A (i.e. Public Notice by ROC) have also been changed.

# GST

## 1. *Important changes in GSTR 3B*

a) ITC in GST 2B for a tax period not claimable due to receipt of goods in next period or goods not received at all or because supplier has failed to pay tax:

- To be claimed first in Table 4A(5) of GSTR 3B
- To be reversed in Table 4B(2) of GSTR 3B
- To be claimed again in Table 4A(5) in tax period in which goods are received or tax period in which supplier makes payment of tax
- To be shown in Table 4D(1) in the tax period in which ITC is re-claimed.

b) Reversal of ITC wrongly availed in previous tax periods because of inadvertent mistake may be done in 4B(2)

c) Ineligible ITC u/s 17(5) to be first claimed in 4A(5) and then reversed in 4B(1). Ineligible ITC u/s 17(5) shall no longer be reflected in table 4D as was being done in old format of GSTR 3B

# GST

- d) ITC ineligible due to place of supply restrictions or because of limitation period of claim of ITC u/s 16(4) is shown in table 4 of GSTR 3B to be also shown in Table 4D(2) of GSTR 3B. This information shall not be entered in Table 4A or 4B of GSTR 3B
- e) Reversal of ITC by banking companies u/s 17(4) read with R.38: First full amount of ITC shall be shown in Table 4A and then reversal shall be made in Table 4B(1)
- f) ITC reversed under Rule 42 and 43 because of partial exempt supplies, if reversed by making entry in 4B(1) in excess may require reclaim in Table 4A(5) because of Rule 42, however no row has been kept in table 4D for reclamation of such ITC. Advisory issued by GSTN says that ITC reversed in 4B(1) is not reclaimable, however Rule 42 perceives the restoration of excess reversal.
- g) Similarly if ITC blocked in 17(5) and reversed in 4B(1) is subsequently found to be eligible\*, though may be reclaimed in 4A(5) but there is no row in 4D to reflect such reclaim. Advisory of GSTN says that ITC reversed in 4B(1) is not reclaimable.

# GST

- h) Reclaimable reversals for \*failure to pay suppliers within 180 days\* may be parked in 4B(2). Reclamation at the time of payment through 4A(5) shall be supplemented by disclosure in 4D(1)
- i) Reversal of ITC on inputs and capital goods held in stock on the date of \*cancellation of registration\* may also be effected through 4B(2)
- k) Supplies of \*restaurants, hotels, motorcabs etc., housekeeping\* through e-commerce operators to be shown in table 3.1.1(ii) of GSTR 3B.

# LABOUR LAWS

## 1. *Minimum Changes in Bihar – Effective from Sept 01, 2022*

Class of Employment	Basic Per Day	Basic Per Month	VDA Per Day	VDA Per Month	Total Per Day	Total Per Month
Unskilled	366	9516	81	2106	447	11622
Semi-Skilled	380	9880	83	2158	463	12038
Skilled	463	12038	102	2652	565	14690
Highly Skilled	566	14716	125	3250	691	17966
Supervisory/Clerical	403	10478	88.92	2312	491.92	12790



# CASE LAWS - INCOME TAX

## 1. *NLC India Ltd. v. Assistant Commissioner of Income-tax*

It has been held that re-assessment proceedings are liable to be quashed where they are found to be merely a review of the original assessment proceedings.

## 2. *Sanatan Dharam Sabha v. Commissioner of Income-tax (Exemption)*

It has been held that where there was nothing on record to suggest that activities of assessee society, engaged in carrying of charitable and religious activity, were not genuine or its objects were not of charitable or religious nature, Commissioner (Exemption) could not deny registration u/s 12AA on ground that assessee had without any approval wrongly claimed exemption under sections 10(23BBA) and 10(23C)(v), as registration u/s 12AA was not dependent either upon section 10(23BBA) or 10(23C)(v).

# CASE LAWS - INCOME TAX

## 3. *Vedanta Ltd v. JCIT ( 2021 ) BCAJ-January P. 58 ( Mad) (HC)*

The Madras High Court while allowing the appeal of the assessee held that, provision made for site restoration is a contingent liability hence allowable as deduction on the principle of commercial expediency.

## 4. *Board of Control for Cricket in India v. PCIT (Mum.)(Trib.)*

Where the Department declined registration of a Charitable Organization on the ground of Indian Premier League (IPL) activities are in the nature of commercial activities, it was held that merely because a sports tournament is structured in such a manner so as to make it more popular, resulting in more paying sponsorships and greater mobilization of resources, the basic character of the activity of popularizing cricket is not lost. Therefore, the assessee was entitled to the continuance of its registration u/s 12A.

# CASE LAWS - INCOME TAX

## 5. *Union of India v. Citibank NA.*

The Supreme Court has ruled that Show Cause Notice can't be issued for transactions took place 8 years back. It further held that proceedings can't be initiated in respect of transactions which took place much before the record retention period prescribed under the law.

## 6. *Radheyshyam Agarwal vs. DCIT (ITAT Mumbai)*

Mumbai ITAT has held that

Where the land was agricultural land and was leased out to cultivator to carry out agricultural activities since so many years as evident from revenue records, income received from leasing of agricultural land is also agricultural income. Further since land was leased out, there was no need to maintain bills, vouchers etc. to prove that agricultural activities were carried out. Further section 2(1A)(a) also supports the assesses claim that rent or revenue derived from land used for agricultural purposes is also agricultural income. Addition made was deleted and Income held as exempt.

# CASE LAWS - INDIRECT TAX

## 1. *Rivigo Services (P.) Ltd. v. State of Jharkhand*

Jharkhand High Court has held that orders passed on detention of goods and vehicle and imposing penalty for transporting goods after expiry of e-way bill without considering GPS tracking report and without considering explanation of taxpayer was not valid

# CASE LAWS – LABOUR LAWS

## 1. *BCCI is a 'shop,' provisions of ESI Act applicable*

The Supreme Court has held that the activities of the Board of Control for Cricket in India (BCCI) are commercial in nature and can be termed as a "shop" for the purposes of attracting the provisions of the Employees State Insurance Act. The top court held, ESI Act is welfare legislation enacted by the Centre and a narrow meaning should not be attached to the words used in the Act as it seeks to insure the employees of covered establishments against various risks to their life, health, and well-being and places the charge upon the employer.

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