

**Just 5 Minutes**

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

## INCOME TAX ACT

### 1. *Reg e-pay tax services*

E-Pay Tax service is now enabled for City Union Bank with Over the Counter and Net Banking options. IDBI, Jammu & Kashmir Bank, UCO Bank and Union Bank has been migrated from OLTAS e-Payment of Taxes at Protean (previously NSDL) to e-Pay Tax facility at the e-Filing portal for payment of taxes henceforth.

### 2. *Clarification u/s 269ST*

Reference was received by the CBDT as to whether receipt of cash by Co-operative Societies from a distributor for the sale of milk on a bank holiday or a day when the bank is closed should be considered a single transaction or aggregated with all such cash receipts from the distributor in the previous year to be treated as a single event or occasion under Section 269ST. It was clarified that such receipts should not be aggregated across multiple days for the purposes of Section 269ST.

1. *CBIC Clarifies on dealing with ITC differences between GSTR-3B & 2A for the FY 2017-18 & 2018-19*

CBIC implemented provisional ITC rules w.e.f 9th October 2019 only and hence issued circular no: 183/15/2022-GST to clarify the taxpayers and tax authorities on dealing with differences in ITC claimed in GSTR-3B compared with GSTR-2A for the FY 2017-18 & 2018-19.

The circular states that only the following scenarios are covered in the circular:

1. When a supplier not filed GSTR-1 but filed GSTR-3B, due to which the invoices were not reflected in GSTR-2A.
2. When the supplier filed both GSTR-1 & 3B but failed to report an invoice in GSTR-1, the same was not reflected in GSTR-2.
3. When the supplier has wrongly reported an invoice as B2C instead of B2B in GSTR-1, due to which that invoice was not reflected in GSTR-2A of the recipient.
4. When the supplier has filed both GSTR-1 & 3B but has issued invoices with the wrong GSTIN of the recipient.

Accordingly, the GST officer shall follow the following procedure to verify the ITC difference related to FY 2017-18& 2018-19:

1. The officer shall seek all the invoices due to which ITC differences arose between GSTR-3B and 2A.
2. The officer shall then ascertain the conditions u/s 16 of the CGST Act are fulfilled in respect of the ITC availment.

When the difference between ITC claimed in GSTR-3B and ITC available in GSTR-2A from a supplier for a financial year exceeds Rs 5 lakh, the officer shall seek the recipient to produce a CA/CMA certificate for the supplier.

However, when the ITC difference is less than Rs 5 lakh, the office shall seek the recipient to produce a certificate from the concerned supplier stating that he has made the supplies.

# COMPANIES ACT

## 1. *Clarification of holding AGM through VC or OAVM*

In continuation of MCA's General Circular No. 20/2020 dtd 05/05/2020 and General Circular 01/2022 dtd 05/05/2022, the companies whose AGM are due in the year 2023, have been allowed to conduct their AGMs by Sept 30, 2023 in accordance with the requirements laid down in Para 3 and Para 4 of the referred General Circulars, i.e. through Video Conference (VC) or Other Audio Video Mode (OAVM)

## LABOUR LAWS

### 1. *Introduction Of Unified Portal For Principal Employers To Check EPF Compliances*

The EPFO has launched a unified portal i.e. [unifiedportal-emp.epfindia.gov.in](http://unifiedportal-emp.epfindia.gov.in), for the Principal Employers to login and view the EFF Compliances in respect of their contractors and their contract workers.

This application is an online facility available on the website of EPFO for the Principal Employer to upload work orders/ outsourced job contracts/ contracts work related information directly with a motive to provide effective e-governance system in the compliance set up and enhance the coverage to extend provident fund benefits to eligible employees.

## CASE LAWS - INCOME TAX

1. *Recent decision dated 29.10.2022 of Hon'ble "G" Bench of ITAT, Delhi on application of section 205 of the Income Tax Act, 1961.*

In the processing u/s 143(1), CPC disallowed credit of TDS u/s 199 of an amount Rs. 12,74,469/- deducted from Salary u/s 192 of the Act for the following reasons:

- a) the deductor has failed to deposit the amount of TDS; and
- b) the amount of TDS is not appearing on Form 26AS of the assessee.

However, the Hon'ble ITAT, respecting the order of CIT(A), held that once it is established that tax was duly deducted under section 192 of the Act, the provisions of section 205 of the Act comes into play, according to which once it is substantiated that tax stands deducted, the deductee cannot be called upon to pay tax to the extent tax so deducted.

## CASE LAWS - INCOME TAX

2. *Principal CIT v. Satkar Infrastructure (P.) Ltd.*

It has been held that where Assessing Officer made addition under section 68 to income of assessee-company on account of unexplained share premium and share capital, as findings recorded by appellate authorities indicated that entire amount had been received by assessee by account payee cheques or demand drafts and identity, creditworthiness and genuineness of transactions could not be doubted, impugned addition was rightly deleted by Appellate Authorities

3. *Integra Software Services (P.) Ltd. v. Deputy CIT*

It has been held that where assessee-company had outstanding receivable from its Associated Enterprises (AE) but it had not charged any interest on outstanding receivables from AEs and non-AEs, TP addition made by TPO holding that interest be charged on outstanding beyond specified period was to be deleted

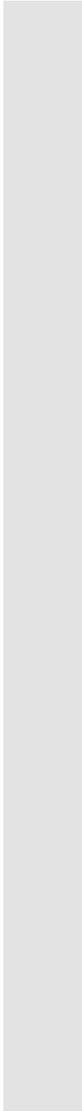
## CASE LAWS - INCOME TAX

### 4. *FCC Co. Ltd. v. ACIT (Intl Taxation)*

It has been held that levy of surcharge and cess cannot exceed tax rate of 10% as per India-Japan DTAA

### 5. - *Principal Commissioner of Income-tax v. Nitin Ramdeoji Lohia*

It has been held that where Assessing Officer made addition by disallowing expenses on purchases on ground that an information was received from sales tax department that assessee was beneficiary of accommodation entries on account of bogus purchases, since Assessing Officer had not disputed corresponding sales transactions, purchases also could not be bogus and, thus, impugned addition made on account of bogus purchases to be deleted.



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