

Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX ACT

1. *CBDT notifies new audit reports to be furnished by charitable/ religious trusts*

The Central Board of Direct Taxes (CBDT) has notified new Form 10B and Form 10BB that are required to be furnished by charitable or religious trusts, institutions, universities, or other educational institutions under section 10(23C) and section 12A.

COMPANIES ACT

1. *MCA allows physical filing of few forms*

The Ministry of Corporate Affairs (MCA) issued circular clarifying about filing of Form GNL-2, MGT-14, PAS-3, SH-9 and SH-8 during February 22, 2023 to March 31, 2023

These forms can be filed via physical mode duly signed by the persons concerned, along with a copy thereof in electronic media, with the concerned RoC without fee and take acknowledgement thereof. Such filing will be accompanied by an undertaking that the company shall also file the relevant Form on MCA.

COMPANIES ACT

2. *MCA further extends the due date for filing 45 company e-Forms*

Due to shifting into V3 Portal, the MCA has decided to allow further additional time till March 31, 2023 for filing 45 e-forms whose due dates are between February 07, 2023 to February 28, 2023.

Further, Form PAS-03, whose due dates fall between January 20, 2023 and February 28, 2023, can also be filed without payment of additional fees till March 31, 2023.

Further, the reservation period for names is extended by a period of 20 days. Also, resubmission period for name reservation has been enhanced by 15 days.

LABOUR LAWS

1. *Supreme Court of India ruling and EPFO circular on higher pension*

This Alert summarizes the Supreme Court of India ruling on availing higher pension benefit by domestic employees contributing to the Employees' Provident Funds Scheme, 1952 (Provident Fund Scheme) and Employees' Pension Scheme, 1995 (Pension Scheme) in India and the circular issued by the Employees' Provident Fund Organisation (EPFO) dated 20 February 2023.

On 4 November 2022, the Supreme Court held that the amendment made to the Pension Scheme effective on 1 September 2014 was valid, subject to certain directions.

Subsequently, the EPFO vide circular dated 20 February 2023 acknowledged that the employees who satisfy the following conditions may, along with their employers, submit joint option application with the EPFO under the Pension Scheme to avail higher pension:

- Employees and employers who had contributed to Provident Fund Scheme on salary exceeding the prevalent statutory ceiling
- Who did not exercise the option for higher pension earlier
- Who were members of the Pension Scheme prior to 1 September 2014 and continued to be members on or after 1 September 2014

As per the Supreme Court ruling, the applications need to be filed on or before May 03, 2023. The employees should apply the joint option/higher pension claim application specified by the concerned Regional Provident Fund Commissioner (RPFC). The link for the same is already available on the member portal

CASE LAWS - INCOME TAX

1. *Mukesh Padamchand Sogani v. ACIT (2023)*

It has been held that credit for amount of tax deducted at source is not dependent upon its subsequent deposit by deductor, hence, requirement for allowing credit is only of amount of tax deducted at source and not amount eventually getting deposited with Government after deduction. Once there is deduction of tax at source, benefit of such tax deduction has to be allowed in hands of deductee under section 143(1) irrespective of its subsequent deposit or non-deposit by deductor.

2. *Perizad Zorabian Irani v. PCIT (Bombay High Court)*

It has been held that where the professional receipts of an individual assessee does not exceed the threshold for tax audit, but the total income, including the remuneration received from two partnership firms, crosses Rs 1 crore, no tax audit is required and return cannot be treated as invalid for failure to get tax audit.

CASE LAWS - INCOME TAX

3. *DCIT Vs. Shivram Constructions India (P) Ltd.*

It has been held that Donation Reference Number is to be provided while claiming 80G deduction in respect of donations entitled for 50% deduction subject to qualifying limit, in ITRs 2, 3, 5 and 6. ITR-7 undergoes a slew of changes with introduction of new schedules viz., Schedule 115BBI (details of specified income of certain institutions under Section 115BBI), Schedule A (consolidating Schedule ER and EC).

4. *CIT (Intl. Taxation) v. Nokia Solutions and Networks OY*

It has been held that for computing profits attributable to Indian PE of assessee, a Finland based company, net profit margins of assessee were to be applied and since assessee recorded a global net loss in relevant assessment year, no profit/income would be attributable to PE.

CASE LAWS - INCOME TAX

5 *Anup Rajendra Tapadia v. DCIT [2023]*

It has been held that in terms of rule 37BA(3)(i), benefit of TDS is to be given for assessment year for which corresponding income is assessable, therefore, where assessee received rental income on 31-3-2020, benefit of TDS had to be allowed in assessment year 2020-21 even though tenant inadvertently reported same in assessment year 2021-22

6. *Vikram Bhatnagar v. ACIT [2023]*

It has been held that where it was duly disclosed in return that it was filed by legal representative of deceased assessee, jurisdictional notice issued against deceased assessee and assessment order passed against dead person on his PAN without bringing on record all legal representatives would be null and void and was to be set aside

CASE LAWS - INDIRECT TAX

1. *Shree Hari Printers v. Commissioner, Commercial Taxes & GST (Orissa)*

It has been held that to consider application for revocation of cancelled registration, GST portal should be opened for payment of tax and other dues and also for filing returns, in absence of which revocation application could not be considered.

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