

**Just 5 Minutes**

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

# INCOME TAX ACT

## 1. Income tax department keeps tolerance range intact for transfer pricing

The income tax department has kept the tolerance range for variation between arm's length price (ALP) and transfer pricing for international and specified domestic transactions intact for the assessment year 2023-24. The limit is kept at 1% for wholesale traders and 3% for all other taxpayers, according to a notification issued by the Central Board of Direct Taxes (CBDT). The limit has been the same for the last few years.

## 2. Extension for filing TDS/TCS Statements

The CBDT has extended the due date for filing TDS/TCS statements in Forms 26Q, 27Q and 27EQ for the first quarter of the financial year 2023-24. Originally scheduled to be filed by July 15 or July 31, 2023, taxpayers now have until September 30, 2023, to submit these statements. This extension specifically applies to the statement of deduction of tax (Form 26Q or 27Q) and the statement of collection of tax (Form 27EQ) for the first quarter of FY 2023-24, which covers the period of April to June 2023.

# INCOME TAX ACT

### 3. TCS on LRS – Guidelines issued to remove difficulties

The CBDT has released guidelines to remove difficulty in implementing changes relating to Tax Collection at Source (TCS) on Liberalised Remittance Scheme (LRS) and on purchasing overseas tour program packages. As announced in the press release dated 28<sup>th</sup> June, 2023, the classification of use of international credit card while being overseas, as LRS is postponed. Therefore, no TCS shall be applicable on expenditure through international credit card while being overseas till further order. In addition, the implementation of a higher rate of tax collected at source (TCS) of 20% on overseas tour package as well as for LRS other purpose, the same has been deferred by three months and will come into effect from October 01, 2023.

# GST

## 1. Waiver for filing Annual Return – upto 2 cr.

CBIC has waived the requirement of filing Annual Return in Form GSTR-9 for taxpayers with annual turnover up to Rs. 2 crore. CBIC also announced that the requirement of filing reconciliation statements in Form GSTR-9C by taxpayers with annual turnover up to Rs. 5 crore has also been waived.

# LABOUR LAWS

## 1. Increase in LWF – Effective Jan 01, 2023

As per the circular dated June 27, 2023, issued by the Haryana Labour Welfare Board, the maximum employee contribution towards Labour Welfare Fund (LWF) in Haryana has been increased from Rs.25/- to Rs.31/- effective from Jan 01, 2023. Thus, the Employer will contribute twice the contribution of the employee.

# CASE LAWS - INCOME TAX

## 1. Jitendra Sharma versus Joint Commissioner of International tax, Ahmedabad

It has been held that no penalty u/s 271C is leviable when the Assessee has deducted tax at source under section 194IA instead of Section 195 when the immovable property is purchased from non-resident especially when on pointing out the tax was correctly recovered and deposited. It was further held that what is important is the fact that the moment a person comes to know that he has committed a mistake and being a person of reasonable intelligence and ordinary prudence if he takes the corrective measures to rectify the same immediately, then it cannot be said that he acted deliberately with complete disregard to law.

## 2. Firmenich Aromatics Production (India) (P.) Ltd. v. Additional/Joint/Deputy/Assistant CIT/ ITO

It has been held that where assessee had paid royalty for use of technical know-how to its AE and applied TNMM, but TPO held that CUP method was most appropriate method for benchmarking transaction, in view of decision of Tribunal in earlier assessment year on similar facts, TPO's approach of benchmarking transaction was to be rejected.

# CASE LAWS - INCOME TAX

## 3. DCIT v. M/s. RATP Dev Transdev India P. Ltd.

It has been held that the social security contribution does not constitute income from salary in the hands of expatriate employees and the employees do not have any right over such contributions. The same will not take care the character of salary in the years of contribution and hence no disallowance of expenditure can be made on account of non-deduction of tax at source.

## 4. DBS Bank India Ltd. v. Commissioner of Income-tax (IT)

It has been held that where assessee entered into various international transactions and its case was selected for scrutiny under 'TP risk' parameter, since AO failed to refer matter to TPO as per Instruction No. 3/16 issued by CBDT, assessment order passed by AO was erroneous and prejudicial to interest of revenue and liable to be set aside.

# CASE LAWS - INDIRECT TAX

## 1. CESTAT Chennai in the matter of Dell International

The Chennai bench of the Customs Excise and Service Tax Appellate Tribunal (CESTAT) has upheld the service tax demand on the Indian salary component paid to expatriate employees seconded from a foreign affiliate on the basis that it constitutes consideration for the manpower services received from the foreign affiliate by the Indian entity. The CESTAT has also relied upon the landmark Supreme Court decision in the case of Northern Operating System Private Limited (NOS decision) and observed that the facts are like that of the NOS decision.



## CASE LAWS – MISC.

1. *Suraj Lamp & Industries Pvt. Ltd. Vs State of Haryana & Anr.*

In a recent case, the Supreme Court has affirmed that regardless of customs or traditions, neither a general power of attorney nor a Will (during the testator's lifetime) grant any rights to immovable property.

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