



**Just 5 Minutes**

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

# INCOME TAX ACT

## 1. *Reg inoperative PAN of NRIs*

NRIs whose PAN is still inoperative, have to intimate their NRI status along with supporting documents to respective jurisdictional Assessing Officer, to make PAN operative. List of supporting documents required for making PAN operative for NRI's is as under:

- A. Copy of PAN Card; and
- B. Any of the following documents:
  - a. Copy of passport showing stay confirming NRI, or
  - b. Copy of Person of Indian Origin (PIO) card issued by Government of India, or
  - c. Copy of Overseas Citizen of India (OCI) card issued by Government of India, or
  - d. Copy of other national or citizenship Identification Number or Taxpayer Identification Number duly attested by "Apostille" (in respect of countries which are signatories to the Hague Convention of 1961) or by the Indian Embassy or High Commission or Consulate in the country where the applicant is located or authorized officials of overseas branches of Scheduled Banks registered in India.

# INCOME TAX ACT

## 2. *CBDT notifies missing 'Annexure II' to Form 34E*

Notified residents seeking an advance ruling under section 245Q(1) use Form 34E for their application. This form requires them to provide a Statement containing their interpretation of law or facts, referenced in Annexure II. Initially, Annexure II was absent from the Form. However, the CBDT has now notified the missing Annexure II to be included in Form 34E.

# GST

## 1. *Highlights of 51<sup>st</sup> GST Council Meeting*

The GST Council was held on Wednesday, 2nd August 2023, to clarify the government's stance on the taxation of online gaming and casinos:-

- ▶ The valuation of the supply of online gaming and actionable claims in casinos is to be done based on the amount paid/payable to/deposited with the supplier by the player and not on the total value of each bet placed. Hence, the value will now exclude the amount entered into games/bets out of the winnings of previous games/bets
- ▶ There will be no change in the levy of 28% GST on the face value, irrespective of whether it's a game of skill or chance
- ▶ The Central Goods and Services Tax Act, 2017, and Integrated Goods and Services Tax Act, 2017, (including Schedule III of the CGST Act, 2017), will be amended to provide clarity on the taxation of supplies in casinos, online gaming and horse racing

# GST

- ▶ A specific provision in the IGST Act, 2017, is to be inserted to provide for the liability to pay GST on the supply of online money gaming by a supplier located outside India to a person in India. This will be for a single registration in India for the said supplier through a simplified registration scheme
- ▶ The CGST Rules, 2017, are to be amended to insert specific provisions for the valuation of the supply of online gaming and the supply of actionable claims in casinos accordingly
- ▶ The process of making amendments to the Act will be done at the earliest, according to the Council, and the amendments are expected to be brought into effect from 1st October 2023
- ▶ The GST Council will reconvene six months post implementation to review the matter

# GST

## 2. *e-Invoice Exemption Declaration Functionality Now Available*

The e-Invoice Exemption Declaration functionality is now live on the e-Invoice portal. This functionality is specifically designed for taxpayers who are by default enabled for e-invoicing but are otherwise exempt from implementing it. Salient features of this functionality are:

- The e-Invoice Exemption Declaration functionality is voluntary and can be accessed at the e-Invoice portal
- This functionality is applicable to taxpayers who are exempted from e-Invoicing as per the provisions of the CGST Rules.
- It is important to note that any declaration made using this functionality will not change the e-Invoice enablement status of the taxpayer.
- The responsibility to take decision vis-à-vis exemption with reference to various Notifications issued by the Government and report on the portal is of the person.
- The facility to report exemption declaration is purely for business facilitation purposes.

# LABOUR LAW

## 1. *PF Interest for the FY 2022-23*

The Employees' Provident Fund Organisation (EPFO) has declared the interest rate as 8.15% for Employees' Provident Fund (EPF) accounts for the financial year 2022-23.

# FOREIGN TRADE POLICY

## 1. *Amendment in Import Policy with respect to laptops, tabs, etc.*

Making a significant move in the game of electronics, Government of India has restricted import of Laptops, Tablets, All-in-one Personal Computers, and Ultra small form factor Computers, Servers under HSN 8471 is 'Restricted' with immediate effect. Import of these items will require a licence from DGFT authorities, with following exemptions:-

- ▶ Imports under baggage Rules.
- ▶ For import of 1 such item including those purchased from e-commerce portals, through post or courier. Imports shall be subject to payment import duty.
- ▶ For import of 20 such items for R&D, Testing provided after such use the products shall either be destroyed or re-exported.
- ▶ Items which are essential part of Capital Goods



# CASE LAWS - INCOME TAX

## 1. *Goldman Sachs & Co. LLC v. DCIT, Intl Taxation*

It has been held that payments towards reimbursement of market data charges received by assessee, a US based company from its Indian Associated Enterprises was not royalty as per article 12 of India-US DTAA

## 2. *Rajesh Dadu v. DCIT*

It has been held that where assessee has sold a property and vendee while making purchase consideration to assessee had deducted TDS at rate of 1% of sale consideration amount as per section 194-IA but same was not deposited by him into credit of Central Government account and he had not uploaded Form no. 26QB, revenue cannot deny TDS credit to assessee and only option left for revenue was to proceed against deductor by holding him to be an assessee-in-default.

# CASE LAWS - INCOME TAX

## 3. *DCIT v. Curosis Healthcare Private Limited (ITAT Jaipur)*

The ITAT while dismissing the appeal of the Revenue has held that Gifting freebies to dealers and stockists based on performance in meeting sales targets is allowable as deduction. Circular No 5 of 2012 dt. 1-8-2012 prohibits the benefit of freebies directly or indirectly to medical practitioners and their professional associations and not to dealers and stockists.

# CASE LAWS – INDIRECT TAX

## 1. *In case of Gargo Traders*

It has been held by the Hon'ble High court of Calcutta that no ITC shall be disallowed even if the supplier's registration is cancelled. It was noted that at the time of the transaction, the name of the supplier as a registered taxable person was already available with the Government record, and the petitioner had paid the amount of purchased articles as well as tax on the same through bank and not in cash, the ITC cannot be denied.

## 2. *Agrawal & Brothers V UOI*

It was held by the Hon'ble High Court of Madhya Pradesh that GST amount cannot be recovered from the recipient when it was admitted by the supplier that inadvertently amount of GST was deposited and reflected in wrong GSTN instead of assessee's GSTN. It was further held that it is a settled law that no one can be made to suffer for the fault of others.



**Fortnightly Update No : 404<sup>th</sup>**

Disclaimer: This is for private circulation only. Every effort has been made to provide the correct information for the facility of our clients.  
Specific advice/clarification should be obtained in case there is any doubt relating to the aforesaid