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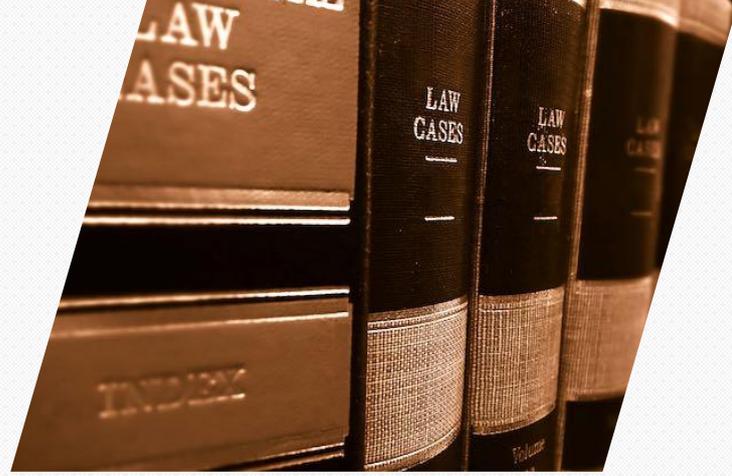
**September - 2018**

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# Direct Tax Case Laws



## Case Law 1

**Where pre-requisite of a prior agreement between a non-AE with AE of an assessee was not fulfilled, transaction between assessee and company to which it provided brand ambassadorship services could not have been regarded as an 'International transaction.'**

Assessee an individual was resident in India and was mainly engaged in profession of film acting and had also functioned as a brand ambassador for various products. It was a party to a Share Purchase Agreement (SPA) signed by existing shareholders of a Mauritius based company, EMSHL for transfer of a portion of shareholding of that company to Kuki Investments Ltd. (Kuki) represented by Raj Kundra and under same SPA, Kuki was also to subscribe to additional shares to be issued by company EMSHL. The assessee herself was neither a buyer nor a seller of shares of EMSHL in SPA. However, under SPA assessee undertook to provide brand ambassadorship services to Jaipur IPL Cricket Private Limited (JICPL), an Indian Company that was a 100 per cent subsidiary of EMSHL, in relation to promotional activities of 'Rajasthan Royals', an IPL cricket team owned by JICPL. The SPA also provided that such services were to be provided by assessee completely without charge or fee to assessee or any other person.

- The Assessing Officer in the assessment order treated assessee and EMSHL as AEs

and held that services rendered by assessee to JICPL by virtue of SPA involving shareholders of EMSHL constituted an international transaction and therefore, Arms Length Price (ALP) had to be computed for such services rendered by assessee free of charge.

- On appeal, the Commissioner(Appeals) applied section 92B(2) to hold that there was a deemed 'international transaction' between assessee and JICPL due to prior agreement, i.e. SPA and made adjustment to assessee's income on basis of ALP.
- On appeal to the Tribunal it was held that Section 92B(2) cannot be applied to hold that transaction between assessee and JICPL was an 'International transaction' as neither any of the parties to the SPA were an AE of the assessee nor JICPL entered into a prior agreement with AE of assessee (JICPL was not a party to SPA); and as such the pre-requisite of a prior agreement between a non-AE with the AE of an assessee is not fulfilled.

**ITAT : Shilpa Shetty v. Assistant Commissioner of Income-tax Mumbai**

## Case Law 2

**IT: Where assessee had availed deduction under section 80-IC for a period of 5 years at rate of 100 per cent, he would be entitled to deduction on substantial expansion for**

# Direct Tax : Case Laws

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**remaining 5 assessment years at rate of 25 per cent (or 30 per cent where assessee is a company), as the case may be, and not at rate of 100 per cent.**

The assessee firm started its business activity/operation in July, 2005 and initial assessment year for claim of deduction under section 80-IC was assessment year 2006-07. The assessee had already claimed deduction under section 80-IC to the extent of the 100 per cent eligible profit for five assessment years from assessment year 2006-07 to 2010-11. However, it was noticed that the assessee firm had again claimed 100 per cent deduction against eligible profits in the relevant assessment year 2012-13 which is seventh year of production for the firm by claiming substantial expansion in financial year 2010-11.

The assessee on being asked to furnish the reasons and justification for the said claim of 100 per cent as against the eligible norm of 25 per cent submitted its reasons for claim stating that it fulfilled all the conditions for the claim of 100 per cent deduction. The Assessing Officer denied the claim of the enhanced deduction in view of the substantial expansion claimed by the assessee and, accordingly, restricted the deduction to 25 per cent of eligible profits for the assessment year under consideration. On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer and dismissed the appeal of the assessee for 100 per cent deduction. In second appeal, the Tribunal dismissed the appeals by a composite order by holding that assessee is eligible for deduction under section 80 at the rate of 25 per cent of the profit derived from industrial undertaking for these years and not at the rate of 100 per cent of deduction claimed by the assessee

On appeal to the High Court, the appeals of the assesseees were allowed with direction that with respect to each of the assesseees the Assessing Officer shall carry out fresh assessment and pass appropriate orders. On appeal by the revenue to the Supreme Court it was held that Sub-section (2) of section 80-IC provides for tax benefit to those undertakings or enterprises which had set up their manufacturing units in certain specified areas including State of Himachal Pradesh to which this case belongs.

It also gives benefit to these undertakings and enterprises which have undertaken substantial expansion during the periods mentioned therein. There is no dispute that all these assesseees are covered by the provisions of sub-section (2). The exemption under section 80-IC is provided at the rate of 100 per cent of such profits and gains for five assessment years commencing with the initial assessment years and, thereafter, 25 per cent (or 30 per cent where the assessee is a company) of the profits and gains for next five years. The deduction is limited to a period of 10 years.

In this backdrop, the question is as to whether these assesseees, who had availed deductions at the rate of 100 per cent for first five years on the ground that they had set up a manufacturing unit as prescribed under sub-section (2), can start claiming deductions at the rate of 100 per cent again for next five years as they had undertaken 'substantial expansion' during the period mentioned in sub-section (2). The answer was stated as negative and it was held that after availing deduction for a period of 5 years at the rate of 100 per cent of such profits and gains from the 'units', the assesseees would be entitled to

# Direct Tax : Case Laws

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deduction for remaining 5 assessment years at the rate of 25 per cent (or 30 per cent where the assessee is a company), as the case may be, and not at the rate of 100 per cent. Thus, all the appeals of the revenue were allowed.

## **SC: Commissioner of Income Tax vs Classic Binding Industries**

### Case Law 3

**It is not open to TPO to go beyond role of determining ALP and intrude in exclusive domain of Assessing Officer to determine income taxable in hands of assessee**

In Assessment year 2009-10, Tax Evasion Petitions (TEPs) were received in case of assessee for previous assessment years 2007-08 and 2008-09 showing that assessee was claiming expenses on account of 'contractor's charges' which was in fact bribe amount distributed by it, hence it was actually concealing income. However, it was said that TEPs did not result in adding back entire amount and only 7 per cent of contractor's expenses had been disallowed for previous year 2007-08. Assessing officer despite being aware of above orders for previous year 2007-08 did not refer to them in his reasons for re-opening assessment for current year. High Court by impugned order held that tax evasion petitions received for previous years could not have formed basis for reopening of assessment for relevant year as Assessing Officer had not referred to orders passed therein at time of recording reasons for reopening assessment for current year. Therefore, it was held that Tax evasion petitions received for previous years could not have formed basis for reopening of assessment for relevant year, as Assessing Officer had not referred to orders passed therein at time of recording reasons for

reopening assessment for current year and Special Leave Petition against said impugned order was to be dismissed.

## **SC : Income-tax Officer, Ward 23(4), New Delhi vs Sky View Consultants (P.) Ltd**

### Case Law 4

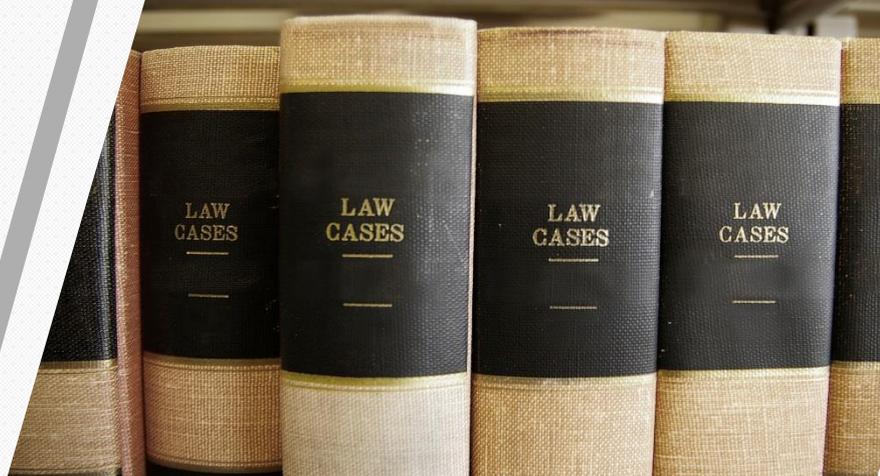
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## **SC : Income-tax Officer, Ward 23(4), New Delhi vs Sky View Consultants (P.) Ltd**

# Indirect Tax :

## Case Laws



### Case Law 1

#### **Refund of SAD after expiry of One Year**

The Appellant had imported “Yarn Nylon Mixed with Sparkling Nylon, Aluminium Foil Paper, 100% Polyester Sewing Threas Raw White on Hanks, Synthetic Yarn 100% Polyester 1/4 to 1/7 NE undyed” vide Bill of Entry No.4884321 dated 20.10.2011 and since the above goods were sold as such to ultimate customers, the appellant filed refund claims in respect of 4 Bills of Entry for refund of 4% SAD in terms of Notification No.102/2007-Customs dt.14.9.2007 as amended by Notification No.93/2008 dt.1.8.2008. The adjudicating authority in the adjudicating order sanctioned refund claims except one Bill of Entry dt.20/10/2011 for an amount of ₹ 60,587/- on the ground that the claim was beyond the time limit of one year from the date of payment of duty. Held that in terms of Notification No.102/2007, an importer is entitled for refund of SAD that was levied at the time of import after he files necessary documents to prove that proper Sales Tax or VAT as the case may be, has been paid. As settled by various higher judicial forums, the purpose of imposing SAD is to protect and ensure collection of appropriate sales tax or VAT that is payable on imported. goods, which is paid upfront at the time of imports. SAD is not credited and set off from the sales tax or VAT, which is refundable to an importer after ascertaining the appellant to appropriate Sales Tax / VAT. The appellant is

eligible for refund, despite the fact that its claim of refund was belated (by 10 days) – appeal was allowed and decided in favour of appellant.

#### **GOYAL IMPEX AND INDUSTRIES LIMITED VERSUS COMMISSIONER OF CUSTOMS (CHENNAI-IV) [2018(9) TMI 95-CESTAT CHENNAI]**

### Case Law 2

#### **Whether activities of employees to be treated as supply or not**

The Applicant is a private limited company engaged in providing health care services categorizing them as In-patient (IP) and Out-patient (OP) services. The Company is also engaged in supply of medicines (pharmacy) to in-patients and out-patients. It also operates Restaurant / Canteen services in its premises which is used for supplying food and other eatable items to its patients and their attendants. The applicant explained that the activities carried out by employees from its India Management Office (IMO) for accounting and other administrative functions with respect to other units amount to supply of services between distinct persons without consideration as per Entry 1 of Schedule I. However, the same shall not be treated as supply of services by virtue of specific relaxation provided in Entry 1 of Schedule III which states that “services by an employee to the employer in course of or in relation to his employment shall be neither treated as a supply of goods not a supply of services.”

# Indirect Tax : Case Laws

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Further, since the corporate office and the units are distinct persons under the Act, there is no such relationship between the employees of one distinct entity with another distinct entity as per the Goods and Service Tax Acts. Further, the activities made between the related persons are treated as supplies and the valuation includes all costs, the employee cost also needs to be taken into consideration at the time of valuation of goods or services provided by one distinct entity to the other distinct entities.

It was held that the activities performed by the employees at the corporate office in the course of or in relation to employment such as accounting, other administrative and IT system maintenance for the units located in the other states as well i.e. distinct persons as per Section 25(4) of the Central Goods and Services Tax Act, 2017 (CGST Act) shall be treated as supply as per Entry 2 of Schedule I of the CGST Act.

**IN RE: M/S. COLUMBIA ASIA HOSPITALS PRIVATE LIMITED [2018 (8) TMI 876 - AUTHORITY FOR ADVANCE RULINGS KARNATAKA]**

## Case Law 3

**Fees collected by taxi aggregation service providers from drivers in lieu of IT services is subject to GST**

The applicant is a private limited company engaged in the business of taxi aggregation service and taxi service. Applicant states that the billing is done in the name of taxi driver who provides the service for a particular trip and the taxi driver would collect the amount from the customer on the completion of the trip. Applicant does not collect any charges including trip commission, but only collects service charges for usage of IT services like Mobile App and billing related services from the taxi operator. Advance ruling has been sought on whether the money paid by customer to cab driver for the services of the trip is liable to GST and whether applicant company is liable to pay GST on this amount. Applicant is registered under GST Act and charges only on monthly service charges recovered from each of the taxi operators. Notification No. 17/2017- Central Tax (Rate) dated 28th June, 2017 notifies the services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle as the category of services, the tax on intra-state supplies on which shall be paid by e-commerce operator as per the provision of section 9(5) of CGST Act, 2017. Electronic commerce operator is liable to pay tax on the services provided by a motor cab and operator is deemed to be supplier in this case. Therefore the applicant is liable to pay tax on the amounts billed by him on behalf of taxi operators for the services provided.

# Indirect Tax : Case Laws

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**2018-VIL-125-AAR- AUTHORITY FOR ADVANCE RULING – KARNATAKA, M/S OPTA CABS PRIVATED LIMITED [ADVANCE RULING NO. KAR ADRG 14/2018 Dated- 27/07/2018]**

## Case Law-4

### **Accumulated credit by way of Krishi Kalyan Cess (KKC) inadmissible ITC under CGST Act**

The applicant (M/s Kansai Nerolac Paints Limited) is engaged in the business of manufacture of paints and provision of works contract service as well. The applicant had sought an advance ruling asking whether accumulated credit by way of Krishi Kalyan Cess (KKC) as appeared in the service tax return of Input Service Distributor (ISD) on June 30, 2017 which is carried forward in the electronic credit ledger maintained under CGST Act, 2017 would be considered admissible input tax credit (ITC). It was answered in the negative by the authority against which an appeal was filed and the matter was brought in front of Appellate Authority. The appellant's argument was since CGST liability subsumed KKC liability which could only be setoff with KKC credit only, therefore migrated KKC credit will be admissible to setoff with CGST liability. The appellate authority relied upon the provisions of CENVAT Credit Rules, 2004 and the amendments made thereon and the judgement of Delhi High Court in the case of Cellular Operators v. UOI (W.P. (Civil) No. 7837 of 2016 dt. 15.02.2018).

It was clear that KKC credit could only be utilised towards payment of KKC liability only and cannot be cross utilized against payment of excise duty or service tax in earlier tax regime. The Frequently Asked Questions (FAQs) issued by Central Board of Excise and Customs of Indirect Taxes (C.B.E.C.) have clarified that ITC of KKC cannot be carried forward under GST. Accordingly, the appeal filed by the applicant was dismissed.

**APPELLATE AUTHORITY FOR ADVANCE RULINGS – MAHARASHTRA IN RE: KANSAI NEROLAC PAINTS LIMITED ORDER NO. MAH/AAAR/SS-RJ/03/2018-19 Dated 03.08.2018**

# Indirect Tax Notification



## **1. GST Reverse Charge Mechanism (RCM) further Deferred/Suspended till 30th September 2019**

CBIC vide Notifications No. 22/2018-Central Tax (Rate) and 23/2018-Integrated Tax (Rate) dated 6th August 2018 has notified that the provisions relating to the Reverse Charge Mechanism (RCM) under Section 9(4) of the CGST Act, 2017 and Section 5(4) of the IGST Act, 2017 respectively have been deferred by the Government of India up to 30th September 2019.

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-22-2018-cgst-rate-english.pdf>

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-23-2018-igst-rate-english.pdf>

## **2. Special Procedure for completing Migration**

CBIC vide Notification No. 31/2018-Central Tax dated 6th August 2018 has laid down the special procedure for completing migration of taxpayers who received provisional IDs but could not complete the migration process.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-31-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-31-2018-central_tax-English.pdf)

## **3. Due dates for monthly furnishing of FORM GSTR-1**

CBIC vide Notification No. 32/2018-Central Tax dated 10th August 2018 has prescribed the due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than 1.5 crores for the months from July 2018 to March 2019 which will be the eleventh day of the month succeeding such month.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-32-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-32-2018-central_tax-English.pdf)

## **4. Due dates for quarterly furnishing of FORM GSTR-1**

CBIC vide Notification No. 33/2018-Central Tax dated 10th August 2018 has prescribed the due dates for quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of up to 1.5 crores for the months from July 2018 to March 2019.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-33-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-33-2018-central_tax-English.pdf)

## **5. Due dates for filing of FORM GSTR-3B**

CBIC vide Notification No. 34/2018-Central Tax dated 10th August 2018 has prescribed the due dates for filing FORM GSTR-3B for the months from July 2018 to March 2019 which will be the twentieth day of the month succeeding such month. Every registered person furnishing the return in FORM GSTR-3B shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under CGST Act 2017.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-34-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-34-2018-central_tax-English.pdf)

# Indirect Tax Notification



## **6. Extension of due date for filing of FORM GSTR-3B**

CBIC vide Notification No. 35/2018-Central Tax dated 21st August 2018 has extended the due date for filing of FORM GSTR-3B for the month of July 2018 till 24th August 2018.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-35-2018-central\\_tax\\_English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-35-2018-central_tax_English.pdf)

## **7. Extension of due date for filing of FORM GSTR-3B**

CBIC vide Notification No. 36/2018-Central Tax dated 24th August 2018 has extended the due dates for filing of FORM GSTR-3B for the months of July and August 2018 till 5th October and 10th October 2018 respectively. This notification is applicable for the registered persons in Kerala, taxpayers whose principal place of business is in Kodagu district in Karnataka and in Mahe in Puducherry.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-36-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-36-2018-central_tax-English.pdf)

## **8. Extension of due date for monthly furnishing of FORM GSTR-1**

CBIC vide Notification No. 37/2018-Central Tax dated 24th August 2018 has extended the due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than 1.5 crores for the months of July 2018 and August 2018 till 5th October 2018 and 10th October 2018 respectively. This notification is applicable for the registered persons in Kerala, taxpayers whose principal place of business is in Kodagu district in Karnataka and in Mahe in Puducherry.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-37-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-37-2018-central_tax-English.pdf)

## **9. Extension of due date for quarterly furnishing of FORM GSTR-1**

CBIC vide Notification No. 37/2018-Central Tax dated 24th August 2018 has extended the due dates for quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto 1.5 crores for the months from July 2018 to September 2018 till 15th November 2018. This notification is applicable for the registered persons in Kerala, taxpayers whose principal place of business is in Kodagu district in Karnataka and in Mahe in Puducherry.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-38-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-38-2018-central_tax-English.pdf)

# Corporate Legal & Regulatory Notifications



S.no	Notifications
1	<p data-bbox="248 732 842 807"><b>COMMENCEMENT NOTIFICATION</b> (MCA Notification dated August 07, 2018)</p> <p data-bbox="248 857 1520 1016">The Ministry of Corporate Affairs vide its notifications dated August 07, 2018 has notified Section 10 of The Companies (Amendment) Act, 2017 which corresponds to Section 42 of the Companies Act, 2013 relating to Issue of Shares on Private Placement Basis to be effective from August 07, 2018. The key highlights of the notified provision are as below:</p> <ul data-bbox="248 1065 1520 2134" style="list-style-type: none"><li data-bbox="248 1065 1520 1304">• Now private placement can only be made to a select group of persons who have been identified by the Board whose number shall not exceed 50 or such higher number that may be prescribed in a financial year subject to conditions as may be prescribed. In case of non-compliance of this provision the offer shall be deemed to be a public offer and all compliances of Companies Act, 2013 &amp; Securities &amp; Exchange Board of India (SEBI) Regulations thereof shall be applicable.</li><li data-bbox="248 1353 1520 1428">• No fresh offer or invitation under this section shall be made unless the allotment with respect to any offer or invitation made earlier have been completed.</li><li data-bbox="248 1478 1520 1637">• A company shall allot securities within 60 days of receipt of share application money for offer under this section. In case allotment is not made, the company shall repay the application money within 15 days of the expiry of the said 60 days, post which money shall be liable to be paid along with interest of 12% per annum.</li><li data-bbox="248 1687 1520 1805">• A Company cannot utilize the share application money received by it unless (i) allotment is made; and (ii) the return of allotment, in e-form PAS – 3, is filed with the Registrar of Companies.</li><li data-bbox="248 1855 1520 1970">• Separate penal provisions for non-filing of e-form PAS – 3 has been introduced. Accordingly, a company, its promoters and directors shall be liable with a penalty INR 1,000/- per day but not exceeding INR 25,00,000/- for delay in filing of Form PAS-3.</li><li data-bbox="248 2020 1520 2134">• Further, the penal provision has been revised from ‘the amount involved in the offer or invitation or Rupees Two Crore, whichever is higher’ to ‘the amount involved in the offer or invitation or Rupees Two Crore, whichever is lower.</li></ul> <p data-bbox="248 2184 1331 2218"><a href="http://www.mca.gov.in/Ministry/pdf/CommencementNoti07_08082018.pdf">http://www.mca.gov.in/Ministry/pdf/CommencementNoti07_08082018.pdf</a></p>

# Legal & Regulatory

S.no	Notifications
2	<p><b>COMPANIES (PROSPECTUS AND ALLOTMENT OF SECURITIES) SECOND AMENDMENT RULES, 2018.</b></p> <p>(MCA Notification dated August 07, 2018)</p> <p>The Ministry of Corporate Affairs (MCA) vide its notification dated August 07, 2018 has amended Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2018 to be effective from August 07, 2018. The amendment was brought in line with the enforcement of Section 10 of the Companies (Amendment) Act, 2017. Through the amendment Rule 14 can be completely substituted by the new rules. The key highlights of the amendment are mentioned below:</p> <ul style="list-style-type: none"><li>• Any proposal for private placement shall be approved by the shareholders of the Company through a special resolution.</li><li>• The time limit for filing e-form PAS – 3 is now 15 days from the date of allotment instead of 30 days earlier.</li></ul> <p>Along with Rule 14 Form PAS-4 for Private Placement Offer Letter has also been substituted with Private Placement Offer and Application Letter</p> <p><a href="http://www.mca.gov.in/Ministry/pdf/RuleProspectusSecurities07_08082018.pdf">http://www.mca.gov.in/Ministry/pdf/RuleProspectusSecurities07_08082018.pdf</a></p>
3	<p><b>COMPANIES (APPOINTMENT AND QUALIFICATION OF DIRECTORS) AMENDMENT RULES, 2018</b></p> <p>(MCA Notification dated August 21, 2018)</p> <p>The Ministry of Corporate Affairs (MCA) vide its notification dated August 21, 2018 has amended the Companies (Appointment and Qualification of Directors) Rules, 2018 to be effective from August 21, 2018. Through the amendment, proviso (i) of Rule 12(A) has been amended to extend the date of filing of Form DIR-3 KYC to September 15, 2018 from August 31, 2018.</p> <p><a href="http://www.mca.gov.in/Ministry/pdf/AppointmentQualificationRule21_22082018.pdf">http://www.mca.gov.in/Ministry/pdf/AppointmentQualificationRule21_22082018.pdf</a></p>



## Amendments - Tax Audit Report An Analysis

By – Amit Mittal, Manager – Audit

IBA

CBDT notifies revised Tax Audit Report Forms (3CA, 3CB, 3CD) from time to time. On 20 July 2018, Form 3CD has been further revised (applicable from 20 Aug. 2018) to expand the scope of reporting relating to GST, GAAR, SFT, Cash Transactions, Transfer Pricing, etc., for FY 2017-18/ AY 2018-19.

However, subsequently on 17th August 2018, CBDT partly deferred implementation of revised Form 3CD by keeping Clauses 30C and 44 in abeyance, till 31 March 2019 i.e. the same shall be applicable w.e.f. 1 April, 2019). It is known that this defereement is the result of representations made by various stakeholders such as ICAI etc. Further, Form 3CD that was earlier revised in July 2017, will remain applicable during 19 July 2017 to 19 August 2018.

Overall, there are approx. 8 amendments in the existing clauses of the form 3CD and 13 new insertions/ additional clauses for disclosure purposes which are as under:

### **Part A-Amendments in existing clauses of Income Tax Audit Report Form No. 3CD**

Sr no of Appendix II of Form 3 CD	Existing Clause	Amendment
4	Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc. if yes, please furnish the registration number or any other identification number allotted for the same	GSTIN & GSTIN number to be mentioned <ul style="list-style-type: none"> <li>• after the words “sales tax,” the words “goods and services tax,” shall be inserted;</li> <li>• after the words “registration number or”, the words “GST number or” shall be inserted</li> </ul>
19	Amounts admissible under sections: 32 AC 33 AB ..... 35 DDA 35 E	Allowances under Section 32 AD to be reported(Additional Depreciation, Investment Allowance etc) <ul style="list-style-type: none"> <li>• the row with entry “32AD” shall be inserted</li> </ul>
24	Amounts deemed to be profits and gains under section 32AC or 33AB or 33ABA or 33AC.	Deemed Gains under section 32 AD to be reported <ul style="list-style-type: none"> <li>• after the words “32AC or”, the words “32AD or” shall be inserted</li> </ul>

26	In respect of any sum referred to in clauses (a),(b), (c), (d), (e) or (f) of section 43B	Reporting of any sum payable to Railways under section 43 B(g) which is not allowable as deduction for non payment  • for the words “or (f)”, the words “, (f) or (g)” shall be substituted
31 (c), (d) & (e)	(v) in case the repayment was made by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.	for the words “taken or accepted”, the word “repaid” shall be substituted
	(ii) amount of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.	after the words “amount of”, the words “repayment of” shall be inserted
	(ii) amount of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.	after the words “amount of”, the words “repayment of” shall be inserted
34 (b)	Whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. If not, please furnish the details	Reporting details of transactions no disclosed / specified in form 61/ 61 A/ 61 B  (b) whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details:

**Part B- Insertion of New Clauses in Income Tax Audit Report Form No. 3CD**

Sr no of Appendix II of Form 3 CD	New Clause
After serial number and entries relating thereto 29 the	Reporting of Amount Chargeable under section 56(2)(ix) as income from other sources  (29a) Whether any amount is to be included as income chargeable under the head ‘income from other sources’ as referred to in clause (ix) of sub-section (2) of section 56? (Yes/No) (b) If yes, please furnish the following details: (i) Nature of income: (ii) Amount thereof:
	Reporting of Amount Chargeable under section 56(2)(x) as income from other sources  29B. (a) Whether any amount is to be included as income chargeable under the head ‘income from other sources’ as referred to in clause (x) of sub-section (2) of section 56? (Yes/No) (b) If yes, please furnish the following details: (i) Nature of income: (ii) Amount (in Rs.) thereof:”;

After serial number 30 and the entries relating thereto

**Reporting details of Primary Adjustment to Transfer Price under Sec 92 CE (1)**

**30A.**

- (a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? (Yes/No)
- (b) If yes, please furnish the following details:-
  - (i) Under which clause of sub-section (1) of section 92CE primary adjustment is made?
  - (ii) Amount (in Rs.) of primary adjustment:
  - (iii) Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)
  - (iv) If yes, whether the excess money has been repatriated within the prescribed time (Yes/No)
  - (v) If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time:

**Reporting details of interest expenditure incurred exceeding one crore rupees as referred u/s 94B(1)**

**30B.**

- (a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B? (Yes/No)
- (b) If yes, please furnish the following details:-
  - (i) Amount (in Rs.) of expenditure by way of interest or of similar nature incurred:
  - (ii) Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.):
  - (iii) Amount (in Rs.) of expenditure by way of interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above:
  - (iv) Details of interest expenditure brought forward as per sub-section (4) of section 94B:

AY	Amount

- (iv) Details of interest expenditure carried forward as per sub-section (4) of section 94B:

AY	Amount

**Reporting of impermissible avoidance arrangements as referred in Section 96**

**30C.**

- (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No)
- (b) If yes, please specify:-
  - (i) Nature of the impermissible avoidance arrangement:
  - (ii) Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:”

In serial number 31, after clause (b)

**Reporting details of each cash receipt or payment in excess of the limit specified under section 269 ST**

- (ba) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account:-
- (bb) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:—

	<p>(bc) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year</p> <p>(bd) Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year</p>
<b>Clause 36A</b>	<p>Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause(e) of clause (22) of section 2? (Yes/No.)</p> <p>If yes, please furnish the following details:</p> <p>Amount received (in Rs.):</p> <p>Date of receipt:</p>
<b>Clause 42</b>	<p><b>Reporting details of transactions not disclosed/ specified in Form No. 61/ 61A/ 61B</b></p> <p>(a) Whether the assessee is required to furnish statement in Form No.61 or Form No.61A or Form 61B? (Yes/No)</p> <p>(b) If yes, please furnish:</p>
<b>Clause 43</b>	<p><b>Reporting whether assessee or its parent entity or alternate reporting entity is liable to furnish the report (CBCR) u/s 286(2)</b></p> <p>(a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286? (Yes/No)</p> <p>(b) If yes, please furnish:</p> <p>(i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity;</p> <p>(ii) Name of parent entity;</p> <p>(iii) Name of alternate reporting entity (if applicable)</p> <p>(iv) Date of furnishing of report</p>
<b>Clause 44</b>	<p>Reporting Break-up of total expenditure into expenditure with registered or not registered entities under the GST</p>

# Upcoming Compliances

Date	Compliance
September 11, 2018	Due date for furnishing of Form GSTR-1 for the taxpayers having aggregate turnover of more than 1.5 crore for the month of August-2018
September 15, 2018	Second instalment of advance tax for the assessment year 2019-20
September 20, 2018	Due date for filing consolidated return in the Form GSTR-3B for the month of August-2018
September 30, 2018	Due Date for filing Income Tax return for assessee whose accounts are required to be audited for A.Y 2018-19.
September 30, 2018	Due date for furnishing of Form GSTR-6 for Input Service Distributor for the months from July 2017 to August 2018.

# Editorial Team

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## About us:

IBA is a leading Financial and legal advisory company with specialization in Assurance, Risk Consulting, Legal, Direct Tax, Indirect Tax(GST) and Corporate Advisory for midsize, SMEs and start-up firms. IBA constitute a young team of path breaking professionals, who believe in creating value through innovation and creativity to provide ultimate client satisfaction. Clients benefit from our fresh thinking, constructive challenge and practical understanding of the issues they face. We aim to alloy a perfect blend of professionalism with high standards of service, in our pursuit of excellence.

Founded in the Year 2003, the company witnessed immense growth from 2 members to currently a 100 members team, with its offices in Delhi, Mumbai and Bangalore and its clients from across states. IBA continues to offer wholesome service experience to boost highly valued client relationships by combining the technical and industry expertise at par with well-placed firms together with a personal commitment to optimize client service.

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