



# **Newsletter** **AASquare Advisors LLP**

First Edition June 2020

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## **Let's Talk on Impact of COVID 19**



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**CA Arjit Agarwal**  
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## Dear Readers,

*“Hard work is just a word to scare people who do not love their work. The actual fact is when you love your work so much, you almost never find it hard”*

During these 70 days, we were staying safe at home with our family taking certain precautions to fight together against COVID-19. Corona pandemic though had very adverse effects on humanity but this leads the world towards Digitalization in very a short span of time. Physical presence of our clients has already been replaced with virtual modes mostly. This unexpected calamity across the world, gives us many lessons that there is nothing above **God**, money is something but not everything, **Work is Worship** but taking care of family is our first priority.

At the outset, First of all I am thankful to **CA Nilesh Vikasmey Ji – Past President of ICAI** for **E-launch of this First Newsletter** on First Anniversary of AASquare Advisors LLP as **Chief Guest**. I am also thankful to him for sparing his valuable time for brief **Interview** with us through the column of this Newsletter on Impact of Covid 19.

I am also thankful to **Rajesh Kumar Singh – MLA from Kanth (UP)** for also sharing his views on Impact of Covid 19 & accepting our request as Guest of Honour for E Launch and Dr Ankit Kumar & Dr Namrata – Senior Medical Officers of Civil Hospital of Meerut for sharing their views on corona wherein they have shared certain precautions etc .

In this newsletter, we have tried to compile all important amendments relating to GST, Income Tax for the May month including compilation of all important verdicts by ITAT, HC and Apex court. However readers are advice to read the relevant Act in details before relying and any article/opinion in this newsletter should not be consider as legal opinion.

Please feel free to share at [admin@asquareadvisors.in](mailto:admin@asquareadvisors.in) for your valuable views/suggestions/feedback for improvement of this Newsletter

Let us all pledge to keep the glory of this reputed country and do serve ourselves as Partner in Nation Building in line of Honorable PM **“Atamnirbhar Bharat”**.

**“If you want to go fast – Go Alone . If you want to go far – Go Together”**

*With warm regards*

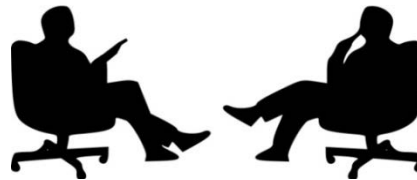
**C.M. Agarwal Advocate - Founder Member**  
**CA Arjit Agarwal - Editor (Honorary)**  
**AASquare Advisors LLP**



CA. Nilesh Shivji Vikamsey Ji with more than three decades of professional standing was the President of the Institute for the year 2017-18. He was elected as the Vice-President of the ICAI for the year 2016-2017. He qualified as a Chartered Accountant in 1985. An academically sound person who has also done Business Consultancy Studies Course of Bombay Chartered Accountants Society jointly with Jamnalal Bajaj Institute of Management Studies (JBIMS) in 2000-2001. His Elder brother CA Kamlesh S Vikamsey was also Past President of ICAI.

He is a Speaker/Chairman at various seminars, meetings, lectures held by various Committees, Regional Councils, Branches & Study Circles of ICAI, Bankers Training College of RBI, Comptroller & Auditor General of India (C&AG), Chambers of Commerce and various other organizations.

He is Ex Chairman of Federal Bank and Currently serving as Senior partner in Family owned professional firm KHIMJI KUNVERJI & Co LLP and Independent director in many reputed listed entities.



**CA Arjit Agarwal** - First of all I am thankful to you on behalf of AASquare Advisors LLP for sparing your valuable time and sharing your views on "Let's Talk" series on topic "Impact of Covid 19". AASquare Advisors LLP is grateful to you for Launching First Newsletter on occasion of Foundation Day as well.

**NSV** – Heartiest Congratulations on the first Anniversary and thank you for giving me opportunity to share my views on COVID 19.

**CA Arjit Agarwal** - Corona Pandemic started with Janta Curfew which looks like a one day but afterwards many states Honorable CMs has announced lockdown which was new to all of us which further looks that it may end up soon. But seeing the current scenario it is for sure that we that to live with Corona for long. Do you think we will be moving towards virtual offices to safe guard from Corona slowly ?

**NSV** - Virtual Office is a reality now. The Covid Pandemic has highlighted two types of organizations—a) one small group (business or professionals) is the one that due to its technology adaptability was able to migrate to Work from Home albeit with some initial operational teething issues and b) the other large group (business or professional) which was not technologically adaptable and hence could not do Work from home (WFH).

Even when the lockdown is lifted a) the first group mentioned above will endeavor to remove the small bottlenecks it faced for WFH and b) the second group mentioned above will put all efforts to introduce WFH



**CA Arjit Agarwal** – Technology is most armed weapon for Development. We were already talking way back about ABCD technology. COVID 19 has done smooth and forced transaction from manual activities to Digital world at a very short span of time. Do you think this as one of the positive aspect of COVID 19 though me and everyone is sympathize with bad impact of it also ?

**NSV** - Absolutely, Covid 19 pandemic is the biggest catalyst and driver for the larger migration to the Digital world. Despite the negative medical impact of Covid 19 on humanity , the positive impact of it has been the push it has given to humanity at large in adapting, migrating and using digital technology in the last about 70 days which in normal course even years would not have suffice to change the human mindset for adopting and using Digital technology's such large scale.





**CA Arjit Agarwal** - Currently COVID 19 pandemic has impacted worldwide wherein economy slow down drastically and lockdowns all over world. Previously we were talking about 5 trillion economy by end of 2024 as mission but COVID 19 creates a lot of challenge to achieve that. According to me there few sector which may have a significantly impact by Corona are Airlines, Hotels, restaurants & Tourism. Can you please share your views on economy of India due to COVID 19 and way forward to achieve 5 trillion economy target?



**NSV** - Like all the Countries of the world , Indian Economy also would be substantially hurt because of the Covid 19 pandemic. However amongst all the other Countries , in my opinion , India is the best placed to recover fast and do well because of huge captive market , less Imports, lower Crude Costs, more Companies looking to shift their Manufacturing and services base to India not only to reduce dependency on China but also to cut high costs in the developed economies. But our Government needs to get its act together to attract the said investments with right policies , as there is huge competition from other South Asian and East European Countries for the capturing the said shift of business

**CA Arjit Agarwal** - How you foresee the going concern of Industries in India?

**NSV** - Indian industries which are managed well, have good financial and operational management and are not leveraged much will grow exceedingly fast.

**CA Arjit Agarwal** – Professionals are using Digital Platforms to get their professional work done wherein no or minimal personal visit of clients in offices and interaction through video conferencing. What measures a professional should do to take care of Cyber Security and VPN Data Protection for remote areas basically Data Security ? Do we need to seriously think for Disaster Management Plans well in advance or setup a team internally specially in Big corporate to cope up with these situations?



**NSV** - I am not a technical person to advise how a professional should take care of Data and Cyber Security , but as pointed out it is an absolute must. All large Companies have Business Continuity Plans and Disaster Recovery Plans, which have been fully tested in this pandemic and they will obviously be improved upon based on experience gained during this Covid pandemic period. We as professionals should also have BCPs and DRPs and also advise our MSME clients to have those plans.

**CA Arjit Agarwal** - A zeal to do something differently and innovatively is always there for recently qualified CAs, Lawyers, MBAs etc. Due to economy slow down drastically their dream jobs or practice profile may take more time than expected. What advise you would like to give to them?

**NSV** - You are right that due to economic slowdown recently qualified CAs, Lawyers, MBAs etc may not get their dream jobs as quickly as in past.

My advice to them is to sharpen their skills in the interim by joining a Professional firm or business where they can hone their skills till they land their dream job.



**CA Arjit Agarwal** - According to you what new opportunity can be for young recently qualified professionals in different discipline after this COVID 19 pandemic

**NSV** - As I mentioned in 5 above , there is a huge opportunity in Business Advisory to clients how to come out of the Covid 19 created Business Problems eg helping in Cash flow management , cost reduction strategies , assisting clients to get the benefit of various schemes announced by the govt. eg MSME finance guarantee schemes and many more. Also there will be scope in Forensic Audit , how Artificial Intelligence will change our profession, data analytics , block chain , cyber security , international tax and for few years in GST. Young generation is very innovative and fast adoptable to technology which is also need of time too. They should work more on technology aspects of the profession like Use of Artificial Intelligence in Accounting & Auditing , Data Analytics , Cyber Security Advisory & Blockchain , as future is technology and Young CAs are future of the profession. I believe that every senior professional may require younger CAs to drive the work through technology aspects.







**CA Arjit Agarwal** - How do you foresee the profession going forward during lockdowns and Corona effect?



**NSV** - Like all other businesses and professions our profession also will be impacted due to Covid 19 by way of delay of work execution for reasons beyond anyone's control, delay of receipts of fees due to client cash flow issues, reduced one time assignments. However there will be a huge opportunity in Business Advisory to clients as how to come out of the Covid 19 created Business Problems eg helping in Cash flow management, cost reduction strategies, assisting clients to get the benefit of various schemes announced by the govt. eg MSME finance guarantee schemes and many more



**CA Arjit Agarwal** - On a lighter note, what is your analysis in respect to Food Industry in India after COVID 19 wherein every one looks to be perfect Master Chef and shows extremely well talents through different platform of social media.

**NSV** - Thanks to Covid 19, most men and working women got a chance or responsibility to cook as they were at home 24X7 for the last 70 days or so ...also few did it also to be fashionable on social media.

**CA Arjit Agarwal** - At last, thank you so much for giving your precious time and answering all questions very well.

**NSV** - Thank you so much

**Thank You So Much.**

## with MLA 25 Kanth(UP) - Ch. Rajesh Kumar Singh Ji



Ch. Rajesh Kumar Singh Ji is elected Member of Legislative Assembly of Kanth constituency which is situated in UP. He is elected for the second time and part of UP Government.

A helping nature person with an intent to upliftment of weaker section of society with an educated enviroment with in his constituency etc. He holds several positions in different committees of UP State Government lead my Honorable CM Yogi Adityanath Ji.

Recently he has done tremendous work during lockdown and he along with the party members of his constituency ran community kitchens, continuously feeding people, helped government bodies to identify people in his constituency who are below poverty line and required government aid ensuring that ration and other essential commodities were made available to them. He also did sanitization which was acknowledged by different Local, State and National TV Channels Like India TV, ANI etc

**Currently** he is serving society at large as elected representative of 25 Kanth(UP) as Members Legislative Assembly for the term 2017-2022



**CA Arjit Agarwal** - First of all I am thankful to you on behalf of AASquare Advisors LLP for sparing your valuable time and sharing your views on "Let's Talk" series on topic "Impact of Covid 19". AASquare Advisors LLP is grateful to you for on occasion of Foundation Day.

**RKS** - Heartiest Congratulations and thank you for giving me opportunity to share my views on COVID 19.

**CA Arjit Agarwal** - Can you please enlighten us some of the Action plans done by you to safeguard your Area from Corona ?

**RKS** - First of all I must appraise the Action taken by our Honorable PM from time to time by way of **Janta Curfew** at 5'o Clock for 5 minute wherein clapping and clanging plates to express gratitude to those providing essential services during this global health crisis, **Light candles** to dispel COVID-19 darkness at 9'o Clock for 9 minute wherein To defeat this darkness, we have to shine the light in every direction and Honorable CM of UP for controlling. We are really blessed by able leadership of Honorable PM at center and Honorable CM at state. During this tragic situation as the lockdown started, we along with the party members of our constituency ran 4 community kitchens for 45 days, continuously feeding people like the labour class working on daily wages, who were unable to arrange food for their families during this lockdown and also the people on highways who were travelling hundreds of kilometers without any conveyance and money. My team also helped government bodies to identify people in my constituency who are below poverty line and required government aid. We ensured that ration and other needful things were made available to them during the lockdown. We started sanitizing the villages of the constituency on our own expense and equipments without any government aid and since last 26 days we have sanitized around 50 villages with the target to reach





out to every house of the village. We also check if there are any suspects of this deadly virus in the village and ensure that medical team reaches out to them for thermal scanning and tests. Now, since we all know religious places have opened from today for public, we have also secured temples and priests so that virus does not spread from there, for the same we sanitized 5 major temples of our constituency and provided PPE kits, sanitizers and soaps to them, also recommended them to follow government guidelines for religious places strictly to ensure safety of everyone. Last but not the least my team is continuously educating people regarding this deadly pandemic and the precautions we should take to keep everyone safe.



**CA Arjit Agarwal** – How you foresee India after this COVID 19 pandemic?

**RKS** – World has encountered with Covid 19 virus which is very unique and this happens almost after 100 years. Previously we were surrounded with Swan Flue. Corona is so severe that it had impacted world wide which leads to situation of complete lockdowns across world. Indian has huge potential to cope with any calamity thought corona is very different from all. I believe that India will stand shortly again as “Rising India and Shinning India”



**CA Arjit Agarwal** – Don't you think that we moved towards Digital world with a virtual interfaces and new concept of work from home?

**RKS** – Yes you are right, during around 70 days of complete lockdown we travelled towards mission of Digital India very fast. Work from home concept will take the world towards different destination and will promote women to work from home as part time contributors.



**CA Arjit Agarwal** – What appeal you would like to do through the column of this Newsletter to general public?

**RKS** – I through the column of this newsletter appeal to first download and install “Aarogya Setu App” in every family member mobile & secondly please do follow instructions from Government on time to time basis. People can also follow government controlled twitters, facebook pages for getting updation and general awareness from time to time.



**CA Arjit Agarwal** – Recently Dr Harshwardan Ji is appointed as new WHO Chairman, a proud movement for India to head WHO. Can you enlighten your thought on it?

**RKS** – Yes it is really a matter of proud that India is heading as Chairman of World Health Organization (WHO) through Dr Harshwardan Ji. I congratulate Dr Harsh Vardhan Ji for such a great opportunity towards mankind at larger level. I am confident enough that this will strengthen our position at International frontier.



**CA Arjit Agarwal** - At last, thank you so much for giving your precious time and answering all questions very well.

**RKS** – Thank you so much



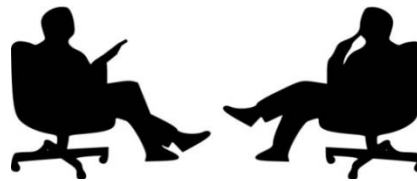
## with Corona Warriors Dr Ankit Kumar & Dr Namrata



Dr Ankit Kumar & Dr Namrata are qualified MBBS DNB. They completed DNB from Mata Channa Devi Hospital New Delhi in year 2010. Academically sound persons with a rich practical exposure in Medical profession of more than 16 years.

Both has received various awards in Medical Profession and Dr Ankit has also received Best Doctor award for 3 times from his Civil Hospital where he is working.

Currently both are serving Medical profession as Senior Medical Officers in one of the reputed Civil Hospital at Western UP and also part of Corona Warriors team of UP State.



**CA Arjit Agarwal** - First of all I am thankful to both of you on behalf of AASquare Advisors LLP for sparing your valuable time and sharing your views on "Let's Talk" series on topic "Impact of Covid 19". AASquare Advisors LLP is grateful to both you for contributing your time on occasion of Foundation Day.

**Dr Ankit & Dr Namrata** – [Heartiest Congratulations and thank you for giving us opportunity to share our views on COVID 19.](#)

**CA Arjit Agarwal** – Before starting the interview please tell us something about this corona virus ?

**Dr Ankit & Dr Namrata** – Corona viruses are a family of viruses that can cause illnesses such as the common cold, severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS). In 2019, a new corona virus was identified as the cause of a disease outbreak that originated in China.



The virus is now known as the severe acute respiratory syndrome corona virus 2 (SARS-CoV-2). The disease it causes is called corona virus disease 2019 (COVID-19). In March 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a pandemic.

**CA Arjit Agarwal** – You did a tremendous job for the society at large and your medical profession really needs hats off especially during corona pandemic. Can you share any live example during treatment of corona patient in service at Pyare Lal Medical Govt hospital ?

**Dr Ankit & Dr Namrata** - [Yes almost daily we are dealing with such patients \(indoor and outdoor\). All such patients may be kept in COVID suspect patient area \(isolation ward\) till the test report is received. And till that we give symptomatic treatment to them. If found positive, then she/he shall be kept in the COVID hospital and if negative then he/she will be transferred to a non-COVID hospital for further management](#)

**CA Arjit Agarwal** – At beginning everyone is of thought that Corona will end during summer or in high temperature. How you foresee life with Corona atmosphere now?

**Dr Ankit & Dr Namrata** - [There is no confirmed data yet on the correlation between warm weather and the spread of new viruses. In general, the spread of virus-based respiratory illnesses does not tend to reduce with the rise in temperatures during summer](#)





**CA Arjit Agarwal – What are the symptoms for identifying the Corona Patient?**  
**Dr Ankit & Dr Namrata - Signs and symptoms of corona virus disease 2019**



(COVID-19) may appear two to 14 days after exposure. In Indian scenario almost 80% patients are asymptomatic. 10 to 15 % have mild to moderate symptoms and the common signs and symptoms can include: Fever, Cough, Tiredness & only 3 to 5 % have severe acute respiratory illness like Shortness of breath or difficulty breathing and may require ventilator support.



**CA Arjit Agarwal – What precautions we need to do to safeguard ourself from Corona ?**

**Dr Ankit & Dr Namrata - To prevent the spread of COVID-19: you have to follow the path.**

1. Clean your hands often. Use soap and water, or an alcohol-based hand rub.
  2. Wear mask and Maintain a safe distance around 2 meters from every one.
  3. Don't touch your eyes, nose or mouth.
  4. Cover your nose and mouth with your bent elbow or a tissue when you cough or sneeze.
  5. Stay home if you feel unwell.
  6. If you have a fever, cough and difficulty breathing, seek medical attention
- We also recommend Aarogya Setu App to install in all mobiles.



**CA Arjit Agarwal – According to you till when we can expect Medicine for corona?**

**Dr Ankit & Dr Namrata – Corona virus is spreading around the world, but there are still no vaccines to protect the body against the disease it causes, Covid-19. But still most experts think a vaccine is likely to become available by mid-2021**



**CA Arjit Agarwal - At last, thank you so much for giving your precious time and answering all questions very well.**

**Dr Ankit & Dr Namrata – Thank you so much**

**Thank You So Much.**

# Analysis on Judgement of Honorable Apex Court on account of Addition u/s 292BB



The Author **CA Arjit Agarwal** is  
**Editor in Chief** of AASquare  
Advisors LLP. He can be reached  
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## 1. In Brief :-

Under Section 292BB of the Income Tax Act, a closer look at Section 292BB shows that if the assessee has participated in the proceedings it shall be deemed that any notice which is required to be served upon was duly served and the assessee would be precluded from taking any objections that the notice was (a) not served upon him; or (b) not served upon him in time; or (c) served upon him in an improper manner.

**Honorable Apex Court** in case of  
**Commissioner of Income Tax**  
**Vs**

**Laxman Das Khandelwal**

Held that



“Since the facts on record are clear that no notice under Section 143(2) of the Act was ever issued by the Department, the findings rendered by the High Court and the Tribunal and the conclusion arrived at were correct. We, therefore, see no reason to take a different view in the matter”

## 1. Relevant terms :-

S.No.	Act/Rule	Section No.	Section Particulars	Brief Section
1.	Income Tax Act	Section 292BB	Notice deemed to be valid in certain circumstances	<p>Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was :-</p> <ul style="list-style-type: none"> <li>(a) Not served upon him; or</li> <li>(b) Not served upon him in time; or</li> <li>(c) Served upon him in an improper manner:</li> </ul> <p>Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.”</p>



S.No.	Case Law	Court	Decision/Judgment
1.	Blue Moon's case	Apex Court	Where the assessing officer in repudiation of the return filed under Section 158 BC(a) proceeds to make an enquiry, he has necessarily to follow the provisions of Section 142, sub-sections (2) and (3) of Section 143.

### 3. Facts of Case in Laxman Das Khandelwal :-

- The assessee company is engaged in the business of brokerage.
- Search and seizure operation was conducted under Section 132 of the Act of 1961 on 11.03.2010 at his residential premises.
- The assessee submitted return of income on 24.08.2011, declaring total income of Rs.9,35,130/-.
- The assessment was completed under Section 143(3) read with Section 153(D) of 1961 Act.
- Rupees 9,09,110/- was added on account of unexplained cash under Section 69 of 1961 Act. Rs.15,09,672/- was added on account of unexplained jewellery. Rupees 45,00,000/- was added on account of unexplained hundies and Rs.29,53,631/- was added on account of unexplained cash receipts.
- Aggrieved, the assessee filed an appeal before the Commissioner Income Tax (Appeal).
- The Commissioner of Income Tax (Appeal) deleted an amount of Rs.7,48,463/- holding that jewellery found in locker weighing 686.4 gms stood explained in view of circular No.1916 and further deleted the addition of Rs.29,23,98,117/- out of Rs.29,53,52,631/- holding that the correct approach would be to apply the peak formula to determine in such transaction which comes to Rs.29,54,514/- as on 05.03.2010.
- Aggrieved, Revenue filed an appeal.
- The Assessee filed cross objection on the ground of jurisdiction of Assessment Officer regarding non issue of notice under Section 143(2) of the Act of 1961.
- The Tribunal vide impugned order upheld the cross objection and quashed the entire reassessment proceedings on the finding that the same stood vitiated as the assessment Officer lacked jurisdiction in absence of notice under Section 143(2) of the act of 1961.
- Tribunal observed "that there was no notice issued u/s 143(2) prior to the completion of assessment under section 143 (3) of the Act by the AO; that the year under consideration was beyond the scope of the provisions of Section 143A of the Act, it being the search year and not covered in the six year to the year of search as per the assessment scheme/procedure defined u/s 153A; that the AO has passed regular assessment u/s 143(3) of the Act; although the Id. CIT has mentioned the section as 143 r.w.s. 153A and that the department had not controverted these facts at the stage of hearing. It is noted that issue of notice u/s 143(2) for completion of regular assessment in the case of the assessee was a statutory requirement as per the provisions of the Act and non issuance thereof is not a curable defect. Even in case of block assessment u/s 158BC, it has been so held by the apex Court in the case of 'ACIT v. Hotel Blue Moon' (2010) 321 ITR 362 (Supra)."
- The Appellate Tribunal held, while affirming the decision of CIT (A) that non-issue of notice under Section 143(2) is only a procedural irregularity and the same is curable.
- The High Court, disagreeing with the Tribunal, held, that the provisions of Section 142 and sub-Section (2) and (3) of Section 143 will have mandatory application in a case where the assessing officer in repudiation of return filed in response to a notice issued under Section 158-BC(a) proceeds to make an inquiry.
- The Revenue thereafter applied to this Court for special leave under Article 136.



#### 4. Apex Court :-

As per Section 261 any person aggrieved by decision of Honorable High Court, can file appeal in any case which the High Court certifies to be a fit one for appeal to the Supreme Court before Honorable Apex Court .

##### a) Issues before the Apex Court :-

- i. Whether service of notice on the assessee under Section 143(2) within the prescribed period of time is a prerequisite for framing the block assessment under Chapter XIV-B of the Income Tax Act, 1961?
- ii. Whether Section 292BB which came into effect on and from 01.04.2008 has effected any change ?

##### b) Assessee's Department's Contention:-

S.No.	Issues	Assessee's Contention	Department's Contention
1.	Participated in proceedings	Assessee relied upon the decision of this Court in Assistant Commissioner of Income Tax and Another vs. Hotel Blue Moon	Reliance was placed by the Appellant on the provisions of Section 292BB of the Act to submit that the Respondent having participated in the proceedings, the defect, if any, stood completely cured.
2.	Interpretation of Section 292BB	That the notice under Section 143(2) of the Act was never issued which was evident from the orders passed on record as well as the stand taken by the Appellant in the memo of appeal. It was further submitted that issuance of notice under Section 143(2) of the Act being prerequisite, in the absence of such notice, the entire proceedings would be invalid.	Since the Respondent had participated in the proceedings, the provisions of Section 292BB would be a complete answer.

##### c) Apex Court Ruling:-

If the assessee had participated in the proceedings, by way of legal fiction, notice would be deemed to be valid even if there be infractions as detailed in said Section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on part of the assessee. It is, however, to be noted that the Section does not save complete absence of notice. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete absence of notice itself.



#### 5. Summary of Judgment :-

- I. The law on the point as regards applicability of the requirement of notice under Section 143(2) of the Act is quite clear from the decision in Blue Moon's case.
- II. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete absence of notice itself.



## 6. CONCLUSION



Section 292BB was introduced by Finance Act 2008 with effect from 01st April 2018 in order to address the issues wherein notices under sub-section (2) of section 143, though issued by registered post within twelve months from the end of the month in which the return was furnished, have been held 'invalid' on the ground that the notice was actually received by the assessee after the limitation date and there was no 'service' as postulated under the section.

It is welcome judgment by Honorable Apex Court.

### \*Sources

- <http://itatonline.org/archives/main/>
- <http://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>

This Article is just analysis of recent Judgment and is not to be construed as any form of legal opinion whatsoever. Readers are requested to go through the Judgment in detailed for more/better understanding.





## 1. In Brief

This article being Gist of recent important verdicts by Honorable Apex Court, High Court and ITAT on various laws during the month **May 2020**.



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## 2. Verdicts – Apex Court:-

S. No.	Verdict	Relevant Section	In Brief
1.	In Re: Vijay Kurlle (Supreme Court)	Contempt of Courts Act	Contempt of Court: There can be no manner of doubt that any citizen of the country can criticise the judgments delivered by any Court including this Court. However, no party has the right to attribute motives to a Judge or to question the bona fides of the Judge or to raise questions with regard to the competence of the Judge. Judges are part and parcel of the justice delivery system. When there is a concerted attack by members of the Bar, the Court cannot shut its eyes to the slanderous and scandalous allegations made. If such allegations are permitted to remain unchallenged then the public will lose faith not only in those particular Judges but also in the entire justice delivery system and this definitely affects the majesty of law
2.	ACCT vs. Glaxo Smith Kline Consumer Health Care Limited (Supreme Court)	5 of Limitation Act	Power of Supreme Court & High Court under Articles 142 and 226 to entertain a challenge to the assessment order on the sole ground that the statutory remedy of appeal against that order stands foreclosed by the law of limitation: The statutory period prescribed for redressal of the grievance cannot be disregarded and a writ petition entertained. Doing so would be in the teeth of the principle that the Court cannot issue a writ which is inconsistent with the legislative intent. That would render the legislative scheme and intention behind the statutory provision otiose
3.	PILCOM vs. CIT (Supreme Court)	115BBA, 194E, DTAA	TDS u/s 115BBA, 194E & DTAA: As the payments to the Non-Resident Sports Associations represented their income which accrued or arose in India u/s 115BBA, the assessee was liable to deduct Tax at Source u/s 194E. The obligation to deduct Tax at Source u/s 194E is not affected by the DTAA. In case the exigibility to tax is disputed by the recipient, the benefit of DTAA can be pleaded and the amount in question will be refunded with interest. But, that by itself, cannot absolve the liability to deduct TDS u/s 194E of the Act (Eli Lilly (2009) 15 SCC 1 & G.E. India Technology Centre 327 ITR (SC) referred)

	In Re Cognizance For Extension Of Limitation (II) (Supreme Court)	5 of Limitation Act	Extension of limitation period: Taking into consideration the effect of the Corona Virus (COVID 19) and resultant difficulties being faced by lawyers and litigants and with a view to obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunal across the country including this Court, it is hereby ordered that all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under section 138 of the Negotiable Instruments Act 1881 shall be extended with effect from 15.03.2020 till further orders to be passed by this Court in the present proceedings
5.	In Re Vijay Kurle & Others (II) (Supreme Court)	Contempt of Courts Act	Contempt of Court by Advocates: There is not an iota of remorse or any semblance of apology on behalf of the contemnors. In view of the scurrilous and scandalous allegations levelled against the judges of this Court and no remorse being shown by any of the contemnors we are of the considered view that they cannot be let off leniently. It is obvious that this is a concerted effort to virtually hold the Judiciary to ransom. All three contemnors are sentenced to undergo simple imprisonment for a period of 3 months each with a fine of Rs. 2000
6.	South East Asia Marine Engineering And Constructions Ltd (Seamec Ltd) vs. Oil India Ltd (Supreme Court)	Contract Act	Doctrine of "Force Majeure" & "Frustration of Contract": Under Indian contract law, the consequences of a force majeure event are provided for u/s 56 of the Contract Act, which states that on the occurrence of an event which renders the performance impossible, the contract becomes void thereafter. When the parties have not provided for what would take place when an event which renders the performance of the contract impossible, then S. 56 of the Contract Act applies. The effect of the doctrine of frustration is that it discharges all the parties from future obligations (Imp judgements referred)
7.	Gurunanak Industries vs. Amar Singh (Supreme Court)	Section 37 Partnership Act	There is a clear distinction between 'retirement of a partner' and 'dissolution of a partnership firm'. On retirement of the partner, the reconstituted firm continues and the retiring partner is to be paid his dues in terms of Section 37 of the Partnership Act. In case of dissolution, accounts have to be settled and distributed as per the mode prescribed in Section 48 of the Partnership Act. When the partners agree to dissolve a partnership, it is a case of dissolution and not retirement A partnership firm must have at least two partners. When there are only two partners and one has agreed to retire, then the retirement amounts to dissolution of the firm (Imp judgements referred)
8.	Ramnath & Co vs. CIT (Supreme Court)	80-O	i) The sweeping proposition in some Supreme Court decisions that when two views are possible, the one favourable to assessee has to be preferred & that a tax incentive provision must receive liberal interpretation, is disapproved by the Constitution Bench in Dilip Kumar (2018) 9 SCC 1 (FB). The burden is on the assessee to prove eligibility to an incentive or exemption provision and it is subject to strict interpretation. If there is ambiguity, the benefit of the ambiguity has to go to the Revenue. However, if the assessee proves eligibility, a wide and liberal construction of the provision has to be done (ii) Merely

having a contract with a foreign enterprise and me earning foreign exchange does not ipso facto lead to the application of s. 80-O of the Act (All judgements considered in detail)

### 3. Verdicts – High Court:-

S. No.	Verdict	Relevant Section	In Brief
1.	Anand Developers vs. ACIT (Bombay High Court)	147, 148	S. 147/ 148: A mere bald assertion by the AO that the assessee has not disclosed fully and truly all the material facts is not sufficient. The AO has to give details as to which fact or the material was not disclosed by the assessee, leading to its income escaping assessment. Otherwise, the reopening is not valid (Imp judgements referred)

### 4. Verdict - ITAT:-

S. No.	Verdict	Relevant Section	In Brief
1.	DCIT vs. JSW Limited (ITAT Mumbai)	254(1), Rule 34(5)(c)	Rule 34(5) of the ITAT Rules provides that “ordinarily” the order on an appeal should be pronounced within no more than 90 days from the date of concluding the hearing. A pedantic view of the rule cannot be taken. The period of 90 days should be computed by excluding at least the period during which the lockdown due to Covid-19 was in force. We must factor ground realities in mind while interpreting the time limit for the pronouncement of the order. Law is not brooding omnipotence in the sky. It is a pragmatic tool of the social order. The tenets of law being enacted on the basis of pragmatism, and that is how the law is required to interpreted

### 5. CONCLUSION

To conclude, we should always focus/be in touch with regular Amendments/Case Laws from Apex Court, High Courts and Tribunal. This will help us in understanding the Law better and guide us how to interpret the Law before Judiciary.

Keep Updating!!!

\*Sources

- <http://itatonline.org/archives/main/>





This Article is just brief of recent Judgment and is not to be construed as any form of legal opinion whatsoever. Readers are requested to go through the Judgment in detailed for more/better understanding.



This is Gist of all important updates during **May 2020** relating to circulars, notifications, miscellaneous communications & press releases from Income Tax Department and advisory communications to the best of our Knowledge and sources\* in brief. However readers are advised to read the relevant in details for better understanding.

### 1. **Income Tax Act 1961 - Notifications:-**

Notification No.	Dated	Heading	In Brief	Link to Read Full
<b>23/2020/ F.No. 370142/31/2 019-TP</b>	06 <sup>th</sup> May 2020	Amendment of Mutual Agreement Procedure (MAP) procedure laid down in the Income-tax Rules, 1962	In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely 44G. Application seeking to give effect to the terms of any agreement under clause (h) of sub-section (2) of section 295 and the procedure for giving effect to the decision under the Agreement.	<a href="#">Click here to Read</a>
<b>24/2020/ F.No. 176/8/2017/ ITA-I</b>	08 <sup>th</sup> May 2020	Approval of Section 80G to Trust	In the exercise of the powers conferred by clause (b) of sub-section (2) of section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "SHRI RAM JANMABHOOMI TEERTH KSHETRA" (PAN: AAZTS6197B) to be place of historic importance and a place of public worship of renown for the purposes of the said section from the year F.Y. 2020-2021, relevant to the Assessment Year 2021-2022	<a href="#">Click here to Read</a>
<b>25/2020/ F.No. 370142/14/2 020-TPL</b>	20 <sup>th</sup> May 2020	Income-tax (9th Amendment) Rules, 2020	In exercise of the powers conferred by section 295 read with sub-section (2) of section 92CB of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962 amending rule rule 10TD, rule 10TE and in Appendix II, in Form No 3CEFA	<a href="#">Click here to Read</a>
<b>26/2020, F.No.300196/ 9/2019-ITA-I</b>	21 <sup>st</sup> May 2020	Section 10(46)	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Kerala Cooperative Development and Welfare Fund Board', Trivandrum (PAN AACTT3875A), a Board constituted by the Government of Kerala, in respect of the specified income arising to that Board.	<a href="#">Click here to Read</a>

 <b>27/2020/ F.No.300196/ 26/2018-ITA- I</b>	27 <sup>th</sup> May 2020	Section 10(46)	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Cochin Special Economic Zone Authority', Kochi (PAN AAAGC0659L), a authority constituted by the Government of India, in respect of the specified income arising to that Authority.	 <a href="#">Click here to Read</a>
<b>28 /2020/F.No.3 00196/16/20 19-ITA-I</b>	27 <sup>th</sup> May 2020	Section 10(46)	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Uttarakhand Environment Protection & Pollution Control Board', Dehradun (PAN AAALU0160D), a Board constituted by the Government of Uttarakhand, in respect of the specified income arising to that Board.	<a href="#">Click here to Read</a>
<b>29/2020/ F.No. 142/15/2015 -TPL</b>	27 <sup>th</sup> May 2020	Income-tax (10th Amendment) Rules, 2020- Remuneration to be paid to an eligible Fund Manager under section 9A of the Income-tax Act, 1961	In exercise of the powers conferred by section 295 read with clause (m) of sub-section (3) of section 9A of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962	<a href="#">Click here to Read</a>
<b>30/2020/ F.No. 370142/20/2 020-TPL</b>	28 <sup>th</sup> May 2020	Income-tax (11th Amendment) Rules, 2020	In exercise of the powers conferred by section 285BB read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962	<a href="#">Click here to Read</a>
<b>31/2020/ F.No. 370142/32/2 019-TPL</b>	29 <sup>th</sup> May 2020	Income-tax (12th Amendment) Rules, 2020	In exercise of the powers conferred by section 139 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the rule 12 further to amend the Income-tax Rules, 1962	<a href="#">Click here to Read</a>

## 2. Income Tax Act 1961 - Circulars:-



Circular No.	Dated	Heading	In Brief	
<b>11 of 2020  F.No. 370142 /18/2020- TPL</b>	08 <sup>th</sup> May 2020	Clarification in respect of residency under section 6 of the Income-tax Act, 1961	In order to avoid genuine hardship in such cases, the Board, in exercise of powers conferred under section 119 of the Act, has decided that for the purpose of determining the residential status under section 6 of the Act during the previous year 2019-20 in respect of an individual who has come to India	<a href="#">Click here to Read</a>

			<p>on a visit before 22nd March, 2020 and</p> <p><b>(a)</b> has been unable to leave India on or before 31<sup>st</sup> March, 2020, his period of stay in India from 22nd March, 2020 to 31<sup>st</sup> March, 2020 shall not be taken into account; or</p> <p><b>(b)</b> has been quarantined in India on account of Novel Corona Virus (Covid-19) on or after 1<sup>st</sup> March, 2020 and has departed on an evacuation flight on or before 31<sup>st</sup> March, 2020 or has been unable to leave India on or before 31<sup>st</sup> March, 2020, his period of stay from the beginning of his quarantine to his date of departure or 31<sup>st</sup> March, 2020, as the case may be, shall not be taken into account; or</p> <p><b>(c)</b> has departed on an evacuation flight on or before 31<sup>st</sup> March, 2020, his period of stay in India from 22<sup>nd</sup> March, 2020 to his date of departure shall not be taken into account.</p>	
<b>12 of 2020</b>  <b>F.No.</b> <b>370142135/2</b> <b>O 19-TPL</b>	20 <sup>th</sup> May 2020	Clarifications in respect of prescribed electronic modes under section 269SU of The Income-tax Act, 1961 - reg.	It is hereby clarified that the provisions of section 269SU of the Act shall not be applicable to a specified person having on only B2B transactions (i.e. no transaction with retail customer/consumer) if at least 95% of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts, are by any mode other than cash	<a href="#">Click here to Read</a>

### 3. **CBDT Press Releases:-**

Dated	Heading	In Brief	
13 <sup>th</sup> May 2020	Reduction in rate of Tax Deduction at Source (TDS) & Tax Collection at Source (TCS)	In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rates of Tax Deduction at Source (TDS) for the following non-salaried specified payments made to residents has been reduced by 25% for the period from 14 <sup>th</sup> May, 2020 to 31 <sup>st</sup> March, 2021	<a href="#">Click here to Read</a>
	Refunds amounting to Rs. 26,242 crore issued since 1st April, 2020	It is stated that the refund process has been further expedited and refunds are being issued at a greater pace since the Union Finance Minister Smt. Nirmala Sitharaman's announcement made in the AatmaNirbhar Bharat Abhiyan last week. CBDT has released a sum of Rs. 2050.61 crore in the previous week ended on 16 <sup>th</sup> May, i.e., between 9 <sup>th</sup> to 16 <sup>th</sup> May, 2020 to 37,531 income tax assesses and a sum of Rs. 867.62 crore to 2878 corporate tax assesseees. During this week, i.e. between 17 <sup>th</sup> to 21 <sup>st</sup> May, 2020, yet another 1,22,764 income tax assesses were refunded Rs. 2672.97 crore and 33,774 corporate tax assesseees including trusts, MSMEs, proprietorships,	<a href="#">Click here to Read</a>



		partnerships, etc. were issued refunds worth Rs. 6714.34 crore, taking the total amount refunded to Rs. 9387.31 crore in the case of 1,56,538 assesseees	
	FM launches facility of Instant PAN through Aadhaar based e-KYC	The process of applying for instant PAN is very simple. The instant PAN applicant is required to access the e-filing website of the Income Tax Department to provide her/his valid Aadhaar number and then submit the OTP received on her/his Aadhaar registered mobile number. On successful completion of this process, a 15-digit acknowledgment number is generated. If required, the applicant can check the status of the request anytime by providing her/his valid Aadhaar number and on successful allotment, can download the e-PAN. The e-PAN is also sent to the applicant on her/his email id, if it is registered with Aadhaar	<a href="#">Click here to Read</a>

4. **CBDT Relevant Miscellaneous Communications:-**

Dated	Heading	In Brief
		<b>There is no important relevant Miscellaneous communications</b>



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Sources      \* <http://www.incometaxindia.gov.in/Pages/default.aspx>

This is Gist of all important updates during **May 2020** relating to circulars, notifications, from GST Department to the best of our Knowledge and sources\* in brief. However readers are advised to read the relevant in details for better understanding.

## 1. Central Tax - Notifications:-

Notification No.	Dated	Heading	In Brief			Link to Read Full						
38/2020	05 <sup>th</sup> May 2020	Seeks to make fifth amendment (2020) to CGST Rules.	Insertion of new rule for furnishing Nil 3B return by short messaging service facility.			<a href="#">Click here to Read</a>						
39/2020	05 <sup>th</sup> May 2020	Seeks to make amendments to special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.	<b>Registration-</b> The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration)in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.			<a href="#">Click here to Read</a>						
40/2020	05 <sup>th</sup> May 2020	Seeks to extend the validity of e-way bills till 31.05.2020 for those e-way bills which expire during the period from 20.03.2020 to 15.04.2020 and generated till 24.03.2020.	Provided that where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 on or before the 24th day of March, 2020 and its period of validity expires during the period 20th day of March, 2020 to the 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 31st day of May, 2020			<a href="#">Click here to Read</a>						
41/2020	05 <sup>th</sup> May 2020	Seeks to extend the due date for furnishing of FORM GSTR 9/9C for FY 2018-19 till 30th September, 2020.	Extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 till the 30th September, 2020			<a href="#">Click here to Read</a>						
42/2020	05 <sup>th</sup> May 2020	Seeks to extend the due date for furnishing FORM GSTR-3B, Jan-March, 2020 returns for the taxpayers registered in Ladakh.	<div>That the return in FORM GSTR-3B shall be furnished electronically through the common portal,</div> <table><tr><th>Union territor y of</th><th>For Period</th><th>on or before</th></tr><tr><td>Jammu and Kashmi r</td><td>Novem ber, 2019 to Februar y, 2020</td><td>24th March, 2020</td></tr></table>			Union territor y of	For Period	on or before	Jammu and Kashmi r	Novem ber, 2019 to Februar y, 2020	24th March, 2020	<a href="#">Click here to Read</a>
Union territor y of	For Period	on or before										
Jammu and Kashmi r	Novem ber, 2019 to Februar y, 2020	24th March, 2020										

			<table border="1"> <tr> <td rowspan="2">Ladakh</td> <td>November, 2019 to December, 2019</td> <td>24th March, 2020</td> </tr> <tr> <td>January, 2020 to March, 2020</td> <td>20th May, 2020</td> </tr> </table>	Ladakh	November, 2019 to December, 2019	24th March, 2020	January, 2020 to March, 2020	20th May, 2020	
Ladakh	November, 2019 to December, 2019	24th March, 2020							
	January, 2020 to March, 2020	20th May, 2020							
43/2020	16 <sup>th</sup> May 2020	Seeks to bring into force Section 128 of Finance Act, 2020 in order to bring amendment in Section 140 of CGST Act w.e.f. 01.07.2017.	The Central Government hereby appoints the 18th day of May, 2020, as the date on which the provisions of section 128 of the said Act, shall come into force	<a href="#">Click here to Read</a>					

## 2. Circulars:-

Circular No.	Dated	Heading	In Brief	
138/8/2020	06 <sup>th</sup> May 2020	Seeks to clarify 'issues in respect of challenges faced by the registered persons in implementation of provisions of GST Laws'.	Circular No.136/06/2020-GST, dated 03.04.2020 and Circular No.137/07/2020-GST, dated 13.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). Post issuance of the said clarifications, certain challenges being faced by taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act were brought to the notice of the Board, and need to be clarified.	<a href="#">Click here to Read</a>

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Sources \* <https://www.cbic.gov.in>





*Down the Memory Lane*



Office Location before and during construction



Founder Member

with Labour during construction

Website Launch



New Office Hawan



Office Inauguration

Office Entrance

Clients zone

Pantry



Conference room

Staff Zone one View

Partners Cabins

All India  
Helpline Number  
**1075 (toll-free)**

**THANK YOU  
Corona Warriors**

