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1. In Brief :-

In computation of income under the head **Profits and gains of business or profession** (PGBP), some of the expenses are allowed under Income Tax Act 1961 and can be claimed by the assessee only in the year in which the payment is actually made. Under Section 43B of Income Tax Act, deduction is allowed on “any sum payable by the assessee by way of tax, duty, cess or fee.” The credit of Excise Duty earned by the appellant under MODVAT scheme as per Central Excise Rules, 1944 is not sum payable by the assessee by way of tax, duty, cess. The scheme under Section 43B is to allow deduction when a sum is payable by assessee by way of tax, duty and cess and had been actually paid by him.



Furthermore, the deductions under Section 43B is allowable only when sum is actually paid by the assessee.

Recently **Honorable Apex Court** in case of

MARUTI SUZUKI INDIA LTD.

Vs

COMMISSIONER OF INCOME TAX, DELHI

With Civil Appeal No. 11924 of 2018

Held that

“The unutilised credit in the MODVAT scheme cannot be treated as sum actually paid by the appellant. The assessee when pays the cost of raw materials where the duty is embedded, it does not ipso facto mean that assessee is the one who is liable to pay Excise Duty on such raw material/inputs. It is merely the incident of Excise Duty that has shifted from the manufacturer to the purchaser and not the liability to the same.” **and**

“The crucial words in the proviso to Section 43B are “*in respect of the previous year in which the liability to pay such sum was incurred*”. The proviso takes care of the situation when liability to pay a sum has incurred but could not be paid in the year in question and has been paid in the next financial year before the date of submission of the Return”

1. Relevant terms :-

S.No.	Act/Rule	Section No.	Section Particulars	Brief Section
1.	Income Tax Act 1956	43B	<p><u>Certain deductions to be only on actual payment.</u></p> <p>43B. Notwithstanding Anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—</p> <p>(a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or</p> <p>(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the</p>	The proviso to Section 43B provides that nothing contained in the Section shall apply in relation to any sum which is actually paid by assessee on or before due date applicable in his case for furnishing the return in respect of the previous year in which the liability to

welfare of employees, or
(c) any sum referred to in clause (ii) of subsection (1) of section 36, or
(d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution or a State financial corporation or a State Industrial investment corporation, in accordance with the terms and conditions of the agreement governing such loan or borrowing, or
(e) any sum payable by the assessee as interest on any loan or advances from a scheduled bank[or a cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank] in accordance with the terms and conditions of the agreement governing such loan or advances, or
(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee, or
(g) any sum payable by the assessee to the Indian Railways for the use of railway assets,

pay such sum was incurred

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in Section 28 of that previous year in which such sum is actually paid by him :
 Provided that nothing contained in this section shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under subsection (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return

2. Important Relevant Judgment from the Past on the Subject Matter :-

S.No.	Case Law	Court	Decision/Judgment
1.	Eicher Motors Ltd. and another versus Union of India and others, (1999) 2 SCC 361	Apex court	That facility of credit is as good as tax paid, hence, it be accepted that by payment of Excise Duty although which is part of sale invoice issued by manufacturer or producer of raw material or inputs, the payment by appellant was Excise Duty which qualified for deduction under Section 43B.

	Collector of Central Excise, Pune and others versus Dai Ichi Karkaria Ltd. and others; (1999) 7 SCC 448	Apex court	That in determining the cost of the excisable product covered by MODVAT Scheme under Section 4(1)(b) of the Act read with Rule 6 of the Valuation Rules, the Excise Duty paid on raw material covered by MODVAT Scheme is not to be included.
3.	Berger Paints India Ltd. versus Commissioner of Income Tax, 2004 (266) ITR 99	Apex court	The claim of the assessee was that entire sum of Rs.5,85,87,181/- was the duties actually paid during the relevant previous year.

3. Facts of Case in Maruti Suzuki India Ltd :-

- The assessee, a Company, has been engaged in manufacturing and sale of various Maruti Cars and also trades in spares and components of the vehicles which are chargeable to Excise Duty under the Central Excise Act, 1994.
- It acquires excisable raw materials and inputs which are used in the manufacturing of the vehicles.
- The assessee had also been taking benefit of MODVAT credit on the raw material and inputs used in the manufacturing.
- At the end of the Assessment year 1999-2000 an amount of Rs.69,93,00,428/- was left as unutilized MODVAT credit.
- In the return it was claimed that the Company was eligible for deduction under Section 43B of the Income Tax Act as an allowable deduction.
- Similarly, the Company claimed deduction under Section 43B of an amount of Rs. 3,08,88,171/- in respect of Sales Tax Recoverable Account.
- The Assessing Officer passed assessment order dated 28.03.2002. The Assessing Officer disallowed the claim of deduction of Rs.69,93,00,428/- as well as Rs.3,08,99,171/-
- Aggrieved by the assessment order, the assessee filed an appeal before the Commissioner of Income Tax.
- The Commissioner of Income Tax also sustained the disallowance of the above two items.
- The ITAT took the view that the advance payment of Excise Duty which represented unutilized MODVAT credit without incurring the liability of such payment is not an allowable deduction under Section 43B.
- The assessee filed an appeal under Section 260A of the Income Tax Act in the High Court which upheld the decision of ITAT.
- Aggrieved by decision of High Court, Assessee preferred an appeal before Apex Court.



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 :-

(ii) Whether the ITAT had committed an error of law in upholding the disallowance of the amount of Rs.69,93,00,428/ which represented MODVAT credit of Excise Duty that remained unutilized by 31st March, 1999 i.e. the end of the relevant accounting year ?

(iii) Whether the ITAT has committed an error of law in upholding the disallowance of Rs.3,08,99,171/ in respect of Sales Tax Recoverable Account, under Section 43B of the Income tax Act ?

S.No.	Issues	Assessee's Contention	Department's Contention
1.	Whether payments of Indirect Taxes to Suppliers which remains unutilized will be treated as Payment u/s 43B ?	<p>a) That the amount paid by way of Excise Duty by the assessee to its suppliers of raw materials and inputs, is accepted as Excise Duty under the provisions of Central Excise Act and Rules. Consequently, when the said payments are made by the assessee to its suppliers, they should be treated as payments of Excise Duty which straightaway qualify for deduction under Section 43B of the Income Tax Act, irrespective of whether or when the MODVAT credit arising from such payments is utilised to make payment of Excise Duty on the products manufactured by the assessee</p> <p>b) High Court erroneously held that the above payments made by the assessee are mere contractual payments and not payments by way of Excise Duty. As soon as the raw materials and inputs are received in the appellant's factory, the assessee becomes entitled to avail of MODVAT credit in respect of Excise Duty paid on the raw materials and inputs and which is mentioned in the manufacturer supplier's invoice. The assessee was clearly entitled for deduction of unutilised MODVAT credit balance as on 31.03.1999</p>	<p>a) It is not in dispute that the assessee was entitled to the duty paid by it to the manufacturer under Rule 57A to Rule 571 of the Central Excise Rules, 1944. Further it is not in dispute that the assessee was entitled to utilise MODVAT credit towards payment of Excise Duty leviable on the final products manufactured by it</p> <p>b) The liability under the Central Excise Act to pay Excise Duty is only on the manufacture of the excisable goods. The assessee is not one who is liable to pay Excise Duty on the raw materials/inputs. It is merely the incidence of Excise Duty that has shifted from the manufacturer to the purchaser and not the liability to pay the same</p>
3.	Basic object of Section 43B ?	<p>a) That questions are squarely covered in favour of the assessee by the 1st proviso to Section 43B. The assessee's Excise Returns establish that while the utilised MODVAT credit as on 31.03.1999 was Rs. 69.30 crores, the entire amount was utilised in April, 1999 itself.</p> <p>b) Consequently, the assessee is entitled to the deduction under the 1st proviso to Section 43B. The object and purpose of Section 43B of the Act is to ensure that an assessee does not get deduction in respect of an amount unless and until the amount has been received by the Government. In the present case the full amount of Excise Duty was paid into the coffers of Government when the manufacturer of raw material/inputs had cleared the</p>	<p>a) The assessee contends that deduction under Section 43B is allowable only when the amount of tax, cess etc. are due and payable and the assessee actually pays the same. In the present case the Excise Duty becomes due and payable only when the assessee removes the finished product from the factory gate, at the point in time when the assessee makes payment to the suppliers the Excise Duty is not due and payable</p> <p>b) That liability to pay Excise Duty of the assessee is incurred on the removal of the finished goods in the subsequent year, therefore, on 31.03.1999, the</p>

same from his factory gate for supply to the assessee. The basic object of Section 43B of the Act is fully subverted and deduction should have been granted as claimed by the assessee

assessee was not liable to pay the Excise Duty and, therefore, the proviso will also not come to the aid of the assessee

c) Apex Court Ruling:-

- i. The crucial words in Section 43B(a) are “any sum payable by the assessee by way of tax, duty, cess or fee...”. We need to examine as to whether unutilised credit under MODVAT Scheme was sum payable by the assessee.
- ii. The taxable event is manufacture and production of excisable articles and payment of duty is relatable to date of removal of such article from the factory.
- iii. The manufacture of the raw materials or inputs which have been used by the appellant are the excisable items within the meaning of Central Excise Rules, 1944.
- iv. The Excise Duty is leviable on the manufacturer of raw materials and inputs.
- v. The supplier of raw materials or inputs includes the Excise Duty paid on such articles in his sale invoices
- vi. The appellant when purchases raw materials and inputs for manufacture of vehicles it maintains a separate account containing the Excise Duty as mentioned in sale invoices.
- vii. The credit of such Excise Duty paid by the appellant is to be given to the appellant by virtue of Rule 57A to 57F of Central Excise Rules, 1944 as it then existed.
- viii. The appellant was fully entitled to discharge his liability to pay Excise Duty on vehicles manufactured by adjusting the credit of Excise Duty earned by it as per MODVAT scheme.
- ix. The liability to pay Excise Duty is not fastened on two entities as per the scheme of Central Excise Act and Central Excise Rules.
- x. It is the manufacturer of raw materials and inputs which are used by appellant who has statutory liability to pay Excise Duty.
- xi. The appellant is not assessee within the meaning of Central Excise Act, 1944, with reference to raw materials and inputs manufactured by the entities from which appellant had purchased the raw materials and entities.
- xii. The scheme under Section 43B is to allow deduction when a sum is payable by assessee by way of tax, duty and cess and had been actually paid by him.
- xiii. The deductions under Section 43B is allowable only when sum is actually paid by the assessee
- xiv. The Excise Duty leviable on appellant on manufacture of vehicles was already adjusted in the concerned assessment year from the credit of Excise Duty under the MODVAT scheme.
- xv. The unutilised credit in the MODVAT scheme cannot be treated as sum actually paid by the appellant .
- xvi. The assessee when pays the cost of raw materials where the duty is embedded, it does not ipso facto mean that assessee is the one who is liable to pay Excise Duty on such raw material/inputs .
- xvii. It is merely the incident of Excise Duty that has shifted from the manufacturer to the purchaser and not the liability to the same
- xviii. Reference is given by Ld counsel in Case of Eicher Motors Ltd and another vs Union of India and others wherein Honorable Apex Court conclude that is in no manner supports the submissions of the appellant for the purposes of the present case.
- xix. Reference is also given by Ld counsel in Case of Collector of Central Excise, Pune and others Vs Dai Ichi Karkaria Ltd, wherein Honorable Apex Court conclude that question answered in this case is different to one which has arisen in the present case.
- xx. That that the unutilised credit under MODVAT scheme does not qualify for deductions under Section 43B of the Income Tax Act
- xxi. **Held that** “The unutilised credit in the MODVAT scheme cannot be treated as sum actually paid by the appellant. The assessee when pays the cost of raw materials where the duty is embedded, it does not ipso facto mean that assessee is the one who is liable to pay Excise





Duty on such raw material/inputs. It is merely the incident of Excise Duty that has shifted from the manufacturer to the purchaser and not the liability to the same”.



xxii. That the sales tax paid by the appellant was debited to a separate account titled ‘Sales Tax recoverable account’. The assessee could have set off sales tax against his liability on the sales of finished goods i.e. vehicles. We do not find any infirmity in the view of the High Court answering the above question

xxiii. That credit for the Excise Duty paid for the raw material can be used at any time when making payment of Excise Duty on excisable product. The user of such credit is at the time of payment of Excise Duty on the excisable product i.e. at the time when appellant is to pay Excise Duty on its manufactured vehicle

Held also that ““The crucial words in the proviso to Section 43B are “*in respect of the previous year in which the liability to pay such sum was incurred*”. The proviso takes care of the situation when liability to pay a sum has incurred but could not be paid in the year in question and has been paid in the next financial year before the date of submission of the Return””

5. Summary of Judgment :-

- I. That the unutilised credit under MODVAT scheme does not qualify for deductions under Section 43B of the Income Tax Act.
- II. The sales tax paid by the appellant was debited to a separate account titled ‘Sales Tax recoverable account’. The assessee could have set off sales tax against his liability on the sales of finished goods i.e. vehicles



6. CONCLUSION

The purpose of introduction of Section 43B of the Income Tax Act 1961 was to plug a loophole in the statute which permitted deductions on an accrual basis without the requisite obligation to deposit the tax with the State. Resultantly, on the basis of mere book entries an assessee was entitled to claim deduction without actually paying the tax to the State. Having regard to the object behind the enactment of Section 43B and the preceding discussions, it would be consistent to hold that the legislative clearly clarified that deduction is allowed only on actual payment basis.

In my opinion, it is a welcome Judgment by Honorable Apex Court ending certain doubt in respect to allowable of deduction under Indirect Taxes

*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 **June & July 2020**.



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2. Verdicts – Apex Court:-

S. No.	Verdict	Relevant Section	In Brief
1.	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 mere earning foreign exchange does not ipso facto lead to the application of s. 80-O of the Act (All judgements considered in detail)
2.	ACIT vs. Marico Ltd (Supreme Court)	147,148	S. 147: The reasons in support of the s. 148 notice is the very issue in respect of which the AO had raised a query during the assessment proceedings and the Petitioner had responded justifying its stand. The non-rejection of the explanation in the Assessment Order amounts to the AO accepting the view of the assessee, thus taking a view/forming an opinion. In these circumstances, the reasons in support of the notice proceed on a mere change of opinion and would be completely without jurisdiction
3.	In Re Cognizance For Extension Of Limitation (July 2020)	5 of Limitation Act, Negotiable Instruments Act	Extension of limitation period due to Covid-19 Lock down: Service of all notices, summons and exchange of pleadings may be effected by e-mail, FAX, WhatsApp, Telegram, Signal etc in addition to service of the same document by e-mail simultaneously on the same date. The Reserve Bank of India may consider whether the validity period of a cheque under the Negotiable Instruments Act should be extended or not
4.	Shiv Raj Gupta vs. CIT (Supreme Court)	28(va), 4	S. 28(v-a): There is a dichotomy between receipt of compensation by an assessee for the loss of agency and receipt of compensation attributable to the negative/restrictive covenant. The compensation received for the loss of agency is a revenue receipt

			whereas the compensation attributable to a negative/ restrictive covenant is a capital receipt. Payment received as non-competition fee under a negative covenant was always treated as a capital receipt till AY 2003-2004. It is only w.e.f. 1-4-2003 that the said capital receipt is now made taxable u/s 28(v-a). It is well settled that a liability cannot be created retrospectively (All imp judgements referred)
5.	DIT vs. Samsung Heavy Industries Co Ltd (Supreme Court)	Article 5 of International Taxation	The condition precedent for applicability of "fixed place" permanent establishments under Article 5(1) of the Double Taxation Avoidance Treaties is that it should be an establishment "through which the business of an enterprise" is wholly or partly carried on. Further, the profits of the foreign enterprise are taxable only where the said enterprise carries on its core business through a permanent establishment. The maintenance of a fixed place of business which is of a preparatory or auxiliary character in the trade or business of the enterprise would not be considered to be a permanent establishment under Article 5. Also, it is only so much of the profits of the enterprise that may be taxed in the other State as is attributable to that permanent establishment (All imp judgements referred)

3. Verdicts – High Court:-

S. No.	Verdict	Relevant Section	In Brief
1.	PCIT vs. Alag Securities Pvt. Ltd (Bombay High Court)	68	S. 68 Bogus Cash Credits: In the case of an assessee engaged in providing 'accommodation entries', the entire deposits cannot be assessed as unexplained cash credits. Only the commission (0.15%) earned in providing the accommodation entries can be assessed as income (PCIT vs. NRA Iron and Steel (2019) 103 Taxmann.com 48 (SC) distinguished)
2.	Ventura Textiles Ltd vs. CIT (Bombay High Court)	260A, 271(1)(c)	S. 260A/ 271(1)(c): (i) An appeal u/s 260-A can be entertained by the High Court on the issue of jurisdiction even if the same was not raised before the Tribunal (ii) the question relating to non-striking off of the inapplicable portion in the s. 271(1)(c) show-cause notice goes to the root of the lis & is a jurisdictional issue (iii) it would be too technical and pedantic to take the view that because in the printed notice the inapplicable portion was not struck off, the order of penalty should be set aside even though in the assessment order it was clearly mentioned that penalty proceedings u/s 271(1)(c) had been initiated separately for furnishing inaccurate particulars of income, (iv) Penalty cannot be imposed for alleged breach of one limb of s. 271(1)(c) of the Act while proceedings were initiated for breach of the other limb of s. 271(1)(c). This vitiates the order of penalty, (v) Threat of penalty cannot become a gag and / or haunt an assessee for making a claim which may be erroneous or wrong (All judgements referred)

	Navin Jolly vs. ITO (Karnataka High Court)	54F	S. 54F: In determining whether the assessee owns more than one residential property, the usage of the property has to be considered. If an apartment is sanctioned for residential purposes but is in fact being used for commercial purposes as a serviced apartment, it has to be treated as commercial property. Alternatively, several independent residential units in the same building have to be treated as one residential unit and there is no impediment to allowance of exemption u/s 54F(1)
4.	M/s. J. S. & M. F. Builders vs. A. K. Chauhan (Bombay High Court)	147, 148, 45, 48	S. 45/ 147: Capital gains are chargeable to tax when individual flats are sold and not when the land is transferred to the co-operative society formed by the flat purchasers. The flat purchasers, by purchasing the flats, had certainly acquired a right or interest in the proportionate share of the land but its realisation is deferred till formation of the co-operative society by the owners of the flats and eventual transfer of the entire property to the co-operative society
5.	PCIT vs. Hybrid Financial Services Ltd (Bombay High Court)	36(1)(viii), 36(2)	S. 36(1)(vii)/ 36(2): Write-off of inter corporate deposits and advances given for purchase of vehicles or plant and machinery is allowable as a bad debt. There is no requirement under the Act that the bad debt has to accrue out of income under the same head i.e 'income from business or profession' to be eligible for deduction. All that is required is that the debt in question must be written off by the assessee in its books of accounts as irrecoverable
6.	Essar Shipping Limited vs. CIT (Bombay High Court)	28(iv)	S. 28(iv): The Dept's argument that the waiver of a loan constitutes an operational subsidy which is taxable is not correct. There is a fundamental difference between "loan" and "subsidy" & the two concepts cannot be equated. While "loan" is a borrowing of money required to be repaid back with interest; "subsidy" is not required to be repaid back being a grant. Such grant is given as part of a public policy by the state in furtherance of public interest. Therefore, even if a "loan" is written off or waived, which can be for various reasons, it cannot partake the character of a "subsidy". The waiver of a loan cannot be brought to tax u/s 28(iv) of the Act
7.	PCIT vs. Vaman International Pvt. Ltd (Bombay High Court)	69C	S. 69C Bogus Purchases: (i) The onus is on the revenue to prove that the income really belongs to the assessee (ii) The assessee has filed copies of purchase/sale invoices, challan cum tax invoices, stock ledger showing entry/exit of materials purchased, bank statements to show payment for purchases were made through banking channels, etc., to establish genuineness of purchases (iii) The AO has not brought on record any material evidence to show that the purchases were bogus (iv) Mere reliance by the AO on information obtained from Sales Tax Department or statements of persons made before the Sales Tax Department is not sufficient to treat the purchases as bogus (v) If the AO doubts the genuineness of the purchases, he has to do further enquiries and give an opportunity to the assessee to examine/cross-examine the parties vis-a-vis the statements made by them before the Sales Tax Department. Without causing such further enquiries in respect of the purchases, it is not open to the AO to make addition u/s 69C



Gateway Leasing Pvt. Ltd vs. ACIT (Bombay High Court)	10(38), 147, 148, 45	S. 147 Reopening for bogus capital gains from penny stocks: The Dept's argument that though the assessee disclosed details of the transactions pertaining to purchase and sale of shares, it did not disclose the real colour / true character of the transactions and, therefore, did not make a full and true disclosure of all material facts which was also overlooked by the AO, is not correct. The assessee disclosed the primary facts to the AO & also explained the queries put by the AO. It cannot be said that the assessee did not disclose fully and truly all material facts necessary for the assessment
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4. Verdict - ITAT:-

S. No.	Verdict	Relevant Section	In Brief
1.	Dev Milk Foods Pvt. Ltd vs. Addl CIT (ITAT Delhi)	143(3), 292BB	S. 143(3)/ 292BB: Under CBDT Instruction No.5/2016, a case earmarked for 'Limited Scrutiny' cannot be taken for 'Complete Scrutiny' unless the AO forms a "reasonable view" that there is a possibility of under assessment of income. The objective of the instruction is to (i) prevent fishing and roving enquiries; (ii) ensure maximum objectivity; and (iii) enforce checks and balances upon the powers of the AO. On facts, there is not an iota of cogent material shown by the AO for the conversion from limited scrutiny to complete scrutiny. The PCIT has also accorded approval in a mechanical manner. S. 292BB does not save the infirmity. The assessment order has to be quashed as a nullity
2.	Muradul Haque vs. ITO (ITAT Delhi)	40(a)(ia)	S. 40(a)(ia): The amendment to s. 40(a)(ia) by the Finance (No.2) Act, 2015 w.e.f. 01.04.2015, which restricts the disallowance for failure to deduct TDS to 30% of the expenditure instead of 100%, is curative in nature and should be applied retrospectively
3.	Tata Education and Development Trust vs. ACIT (ITAT Mumbai)	254(2A)	S. 254(2A): ITAT President to consider whether a Special Bench should be constituted to decide two very significant aspects relating to the powers of the ITAT to grant unconditional stay of demand after the amendment in first proviso to s. 254(2A) by the Finance Act 2020, namely, (i) The legal impact, if any, of the amendment on the powers of the Tribunal u/s 254(1) to grant stay; and, (ii) if the amendment is held to have any impact on the powers of the Tribunal u/s 254(1),- (a) whether the amendment is directory in nature or is mandatory in nature; (b) whether the said amendment affects the cases in which appeals were filed prior to the date on which the amendment came into force; (c) whether, with respect to the manner in which, and nature of which, security is to be offered by the assessee, under first proviso to s. 254(2A), what are broad considerations and in what reasonable manner, such a discretion must essentially be exercised, while granting the stay, by the Tribunal.

	Exotica Housing & Infrastructure Company Pvt. Ltd vs. ITO (ITAT Delhi)	2(22)(e)	S. 2(22)(e) is a deeming provision & should be construed strictly. The section uses the expression "by way of advances or loans" which shows that all payments received from the sister company cannot be treated as deemed dividend but only payments which bear the characteristics of loans and advances. Under the law, all loans and advances are debts, but all debts are not loans and advances. The term 'loans and advances' is not defined & has to be understood in the commercial sense. Advances given for purely temporary financial accommodation for business purposes does not attract the deeming fiction (All imp judgements referred)
5.	Suresh Kumar Agarwal vs. ACIT (ITAT Delhi)	10(38), 68	S. 10(38) Bogus capital gains from penny stocks: The assessee has produced contract notes, demat statements etc & discharged the onus of proving that he bought & sold the shares. The AO has only relied upon the report of the investigation wing alleging the transaction to be bogus. He ought to have examined a number of issues (which are enumerated in the order) and shown that the transaction is bogus. The capital gains are genuine and exempt from tax
6.	Renu T Tharani vs. DCIT (ITAT Mumbai)	68	S. 68 Black Money: The sum of Rs 196 crore held by HSBC Pvt Bank, Switzerland, in the name of Tharani Family Trust, of which the assessee was a beneficiary, is assessable as the undisclosed income of the assessee. The assessee is not a public personality like Mother Teresa that some unknown person, with complete anonymity, will settle a trust to give her US \$ 4 million, and in any case, Cayman Islands is not known for philanthropists operating from there; if Cayman Islands is known for anything relevant, it is known for an atmosphere conducive to hiding unaccounted wealth and money laundering. HSBC Pvt Bank has also been indicted by several Governments worldwide and how it has even confessed to be being involved in money laundering (All imp judgements on preponderance of human probabilities and ground realities referred)

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 **June & July 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
33/2020/ F.No.300196/ 39/2018-ITA-I	23 rd June 2020	Section 10(46)	This notification shall be given retrospective effect for the period from 01-06-2011 to 31-03-2012 in the assessment year of 2012-2013 and also from the assessment years 2013-2014, 2014-2015, 2015-2016 and 2016-2017, in view of the Order of the Hon'ble High Court of Delhi in matter of Greater Noida Industrial Development Authority V. Union of India and Others [W.P. (Civil) No.732 of 2017], dated 26th Day of February, 2018. It is certified that by giving retrospective effect to the notification no person will adversely get affected.	Click here to Read
34/2020/ F.No.300196/ 53/2019-ITA-I	23 rd June 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, 'Maharashtra Electricity Regulatory Commission', Mumbai (PAN AAAGM0004R), a commission established by the State Government of Maharashtra, in respect of the specified income arising to that Commission	Click here to Read
35/2020/ F. No. 370142/23/2 020-TPL	24 th June 2020	TAXATION AND OTHER LAWS	31st day of December, 2020 shall be the end date of the period during which the time limit specified in, or prescribed or notified under, the specified Act falls for the completion or compliance of such action as specified under the said sub-section; and the 31st day of March, 2021 shall be the end date to which the time limit for completion or compliance of such action shall stand extended and other as specified.	Click here to Read
36/2020, F. No. 300196/38/2 017-ITA-I	25 th June 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, 'Real Estate Regulatory Authority' as specified in the	Click here to Read

			schedule to this notification, constituted by Government in exercise of powers conferred under subsection (1) of Section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a 'class of Authority' in respect of the following specified income arising to that Authority as specified	
37/2020/ F.No. 300196/50/2 019-ITA-I	25 th June 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, 'Real Estate Regulatory Authority' as specified in the schedule to this notification, constituted by Government in exercise of powers conferred under sub-section (1) of Section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a 'class of Authority' in respect of the following specified income arising to that Authority as specified	Click here to Read
38/2020/F. No.370142/1 5/2020-TPL	26 th June 2020	Income Tax (13 th Amendment) Rules 2020	In exercise of the powers conferred by sub-section (2) of section 115BAC 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 as specified	Click here to Read
39/2020/ F.No. 370142/23/2 020-TPL	29 th June 2020	Corrigendum to Notification No 35/2020 regarding extension of time limits under the Income-tax Act, 1961 and related Acts	(i) in line 30, for "section 54 or 54GB" read "sections 54 to 54GB"; (ii) in line 35, for "sub-clause (i)" read "sub-clause (i) of clause (c)"	Click here to Read
40/2020/ F.No. 370149/143/ 2019-TPL	29 th June 2020	Income-tax (14 th Amendment) Rules, 2020	In exercise of the powers conferred by clause (XI) of the proviso to clause (x) of subsection (2) of section 56 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 as specified	Click here to Read
41/2020/ F.No. 142/15/2015 -TPL- Part (1)	30 th June 2020	Notification under proviso to section 9A(3) of the Income-tax Act, 1961	In exercise of the powers conferred by the proviso to sub-section (3) of section 9A of the Income-tax Act, 1961(43 of 1961), the Central Government hereby notifies that the conditions specified in clauses (e), (f) and (g) of the said sub-section shall not apply in case of an investment fund set up by a	Click here to Read

			Category-I foreign portfolio investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992)	
42/2020/ F.No. 370149/143/ 2019-TPL	30 th June 2020	Income-tax (15th Amendment) Rules, 2020	In exercise of the powers conferred by section 50CA 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 as specified	Click here to Read
43/2020/ F.No. 370142/11/2 020-TPL	03 rd July 2020	Income-tax (16th Amendment) Rules, 2020 Amendment of rule 31A, Form 26Q & 27Q	In exercise of the powers conferred by sections 194A, 194J, 194K, 194LBA, 194N, 194-O, 197A and 200 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 Income-tax (16th Amendment) Rules, 2020	Click here to Read
44/2020/ F.No. 370142/24/2 020-TPL	03 rd July 2020	Notification of Harmonised Master List of Infrastructure Sub- sectors for the purposes of section 10(23FE) of the Income-tax Act, 1961	In exercise of the powers conferred by item (b) of sub-clause (iii) of clause (23FE) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies business, for the purposes of said item (b), to be the business which is engaged in the infrastructure sub-sectors mentioned in Updated Harmonised Master List of Infrastructure Sub-sectors in the notification of the Government of India in the Ministry of Finance, Department of Economic Affairs, published in Gazette of India, Extraordinary, vide number, F.No.13/3/2017-INF dated 13th August, 2018	Click here to Read
45 /2020/F. No.370142/2 6/2019-TPL	07 th July 2020	National Pension Scheme Tier II- Tax Saver Scheme, 2020	The contribution made under this scheme shall have a lock in period of three years from the date of credit of amount to the specified account. The contribution made to the specified account shall not be permitted to be assigned, pledged or hypothecated during the lock-in-period	Click here to Read
46 /2020/F. No. 300196/07/2 020-ITA-I	13 th July 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, 'National Aviation Security Fee Trust' (PAN AADTN2508F), a trust established by the Central Government, in respect of the certain specified income arising to	Click here to Read



47/2020/F. No. 300196/13/2 019-ITA-I	13 th July 2020	Section 10(46)	that trust. 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, 'Real Estate Regulatory Authority' as specified in the schedule to this notification, constituted by Government in exercise of powers conferred under sub-section (1) of section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a 'class of Authority' in respect of the certain specified income arising to that Authority	Click here to Read
48/2020/ F. No. 225/115/202 0-ITA.II	14 th July 2020	Section 138 of the Income-tax Act, 1961	In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of Section 138 of the Income-tax Act, 1961, the Central Government hereby specifies Additional Secretary and Development Commissioner, Ministry of Micro Small and Medium Enterprises, Government of India for the purposes of the said clause	Click here to Read
49 /2020/F.No.3 00196/43/20 19-ITA-I	17 th July 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, 'Real Estate Regulatory Authority' as specified in the schedule to this notification, constituted by Government in exercise of powers conferred under sub-section (1) of section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a 'class of Authority' in respect of the certain specified income arising to that Authority	Click here to Read
50/2020/F. No. 300196/74/2 018-ITA-I	21 st July 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, 'Tamil Nadu e-Governance Agency', an agency formed by the State Government of Tamil Nadu, in respect of the following specified income arising to that Authority	Click here to Read
51/2020 F.No. 225/49/2019 -ITA.II	21 st July 2020	Section 138 of the Income-tax Act, 1961	In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of Section 138 of the Income-tax Act, 1961, the Central Government hereby specifies Joint Secretary (Farmers welfare), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of	Click here to Read

			Agriculture and Farmers Welfare, Government of India, for the purposes of the said clause in connection with sharing of information regarding income-tax assesseees for identifying the eligible beneficiaries under PM-KISAN Yojana	
52/2020 F. No. 225/53/2020 -IT A.II	21 st July 2020	Section 138 of the Income-tax Act, 1961	In pursuance of sub-clause (ii) of clause (a) of sub-section (t) of Section 138 of the Income-tax Act, 1961. the Central Government hereby specifies the following bodies/agencies for the purposes of the said clause	Click here to Read
53 /2020/ F.No.300196/ 39/2018-ITA-I	22 nd July 2020	CORRIGENDUM	In the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 33/2020 in F. No. 300196/39/2018-ITA-1 dated 23.06.2020, published in Part-II, Section 3, Sub-section (ii) of the Gazette of India vide S.O No. 2014 (E), the following corrections in the English version are made	Click here to Read
54/2020/F. No. 370142/22/2 020-TPL	24 th July 2020	Income-tax (17th Amendment) Rules, 2020 Amendment of rule 31AA, Form 27EQ	In exercise of the powers conferred by section 197 and 206C 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	Click here to Read
55/2020/ F. No.142/22/2 015-TPL	28 th July 2020	Income-tax (18th Amendment) Rules, 2020	12CB. Statement under sub-section (7) of section 115UB.—(1) The statement of income paid or credited by an investment fund to its unit holder shall be furnished by the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund to the specified	Click here to Read
56/2020/ F. No. 370142/23/2 020-TPL	29 th July 2020	TAXATION AND OTHER LAWS	In exercise of the powers conferred by sub-section (1) of section 3 of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (2 of 2020), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number 35/2020, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), vide number S.O. 2033(E), dated the 24th June, 2020	Click here to Read

Circular No.	Dated	Heading	In Brief	
13 of 2020 F. No. 225/59/2020 /ITA-II	13 th July 2020	One-time relaxation for Verification of tax-returns for the Assessment years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which are pending due to non-filing of ITRV form and processing of such returns - reg.	<p>one-time measure for resolving the grievances of the taxpayers associated with non-filing of ITR-V for earlier Assessment Years and to regularize such returns which have either become Non-est or have remained pending due to non-filing/non-receipt of respective ITR-V Form, the CBDT, in exercise of powers under section 119 of the Act, in case of returns for Assessment Years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which were uploaded electronically by the taxpayer within the time allowed under section 139 of the Act and which have remained incomplete due to non-submission of ITR-V Form for verification, hereby permits verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes as listed in para 1 above. Such verification process must be completed by 30.09.2020</p> <p>Further, CBDT, also relaxes the time-frame for issuing the intimation as provided in second proviso to sub-section (1) of Section 143 of the Act and directs that such returns shall be processed by 31.12.2020 and intimation of processing of such returns shall be sent to the taxpayer concerned as per the laid down procedure. In refund cases, while determining the interest, provision of section 244A (2) of the Act would apply</p>	Click here to Read
14 of 2020 F. No. 370142/27/2020-TPL	20 th July 2020	Clarification in relation to notification issued under clause (v) of proviso to section 194N of the Income-tax Act, 1961 (the Act) prior to its amendment by Finance Act, 2020 (FA, 2020)-Reg.	The matter has been examined by the Board and it is hereby clarified that the mentioned three notifications i.e. Notification 68 of 2019 dated 18.09.2019, Notification 70 of 2019 dated 20.09.2019 & Notification 80 of 2019 dated 15.10.2019 shall be deemed to be issued under fourth proviso to section 194N as amended by the FA, 2020. It is further reiterated that the exemption allowed under the said notifications shall be subject to the conditions laid down therein	Click here to Read



15 of 2020 F No 370142/26/2 020-TPL	22 nd July 2020	Notification of Sovereign Wealth Fund under section to(23FE) of the Income-tax Act, 1961	SWF shall file application in the Form I in the Annexure to this circular. The Form I shall be filed with the Member (Legislation), Central Board of Direct Taxes (CBDT), Department of Revenue, Ministry of Finance, North Block, New Delhi during the financial year 2020-21 and thereafter to the Member, CBDT having supervision and control over the work of Foreign Tax and Tax Research Division	Click here to Read
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3. CBDT Press Releases:-

Dated	Heading	In Brief	
07 th June 2020	Growth Trajectory of Direct Tax Collection & Recent Direct Tax Reforms	There are reports in a certain section of media that the growth of direct taxes collection for the FY 2019-20 has fallen drastically and buoyancy of the direct tax collection as compared to the GDP growth has reached negative. These reports do not portray the correct picture regarding the growth of direct taxes. It is a fact that the netdirect tax collection for the FY 2019-20 was less than the net direct tax collection for the FY 2018-19. But this fall in the collection of direct taxes is on expected lines and is temporary in nature due to the historic tax reforms undertaken and much higher refunds issued during the FY 2019-20	Click here to Read
24 th June 2020	Extension of various time limits under Direct Tax & Benami laws	In order to provide further relief to the taxpayers for making various compliances, the Government has issued a Notification on 24th June, 2020, the salient features of which are as under I. The time for filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) has been extended to 31st July, 2020. II. Due date for income tax return for the FY 2019-20 (AY 2020-21) has been extended to 30th November, 2020. Hence, the returns of income which are required to be filed by 31st July, 2020 and 31st October, 2020 can be filed upto 30th November, 2020. Consequently, the date for furnishing tax audit report has also been extended to 31st October, 2020. III. In order to provide relief to small and middle class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose selfassessment tax liability is upto Rs. 1 lakh has also been extended to 30th November, 2020. However, it is clarified that there will be no extension of date for the payment of self-assessment tax for the taxpayers having selfassessment tax liability exceeding Rs. 1 lakh. In this case, the whole of the self-assessment tax shall be payable by the due dates specified in the Income-tax Act, 1961 (IT Act) and delayed payment would attract interest under section 234A of the IT Act. IV. The date for making various investment/ payment for claiming deduction under Chapter-	Click here to Read

		<p>VIA-B of the IT Act which includes section 80C (LIC, PPF, NSC etc.), 80D (Mediclaime), 80G (Donations) etc. has also been further extended to 31st July, 2020. Hence the investment/ payment can be made upto 31st July, 2020 for claiming the deduction under these sections for FY 2019-20</p> <p>V. The date for making investment/ construction/ purchase for claiming roll over benefit/ deduction in respect of capital gains under sections 54 to 54GB of the IT Act has also been further extended to 30th September, 2020. Therefore, the investment/ construction/ purchase made up to 30th September, 2020 shall be eligible for claiming deduction from capital gains.</p> <p>VI. The date for commencement of operation for the SEZ units for claiming deduction under section 10AA of the IT Act has also been further extended to 30th September, 2020 for the units which received necessary approval by 31st March, 2020.</p> <p>VII. The furnishing of the TDS/ TCS statements and issuance of TDS/ TCS certificates being the prerequisite for enabling the taxpayers to prepare their return of income for FY 2019-20, the date for furnishing of TDS/ TCS statements and issuance of TDS/ TCS certificates pertaining to the FY 2019-20 has been extended to 31st July, 2020 and 15th August, 2020 respectively.</p> <p>VIII. The date for passing of order or issuance of notice by the authorities and various compliances under various Direct Taxes & Benami Law which are required to be passed/ issued/ made by 31st December, 2020 has been extended to 31st March, 2021. Consequently, the date for linking of Aadhaar with PAN would also be extended to 31st March, 2021.</p> <p>IX. The reduced rate of interest of 9% for delayed payments of taxes, levies etc. specified in the Ordinance shall not be applicable for the payments made after 30th June, 2020.</p>	
3rd July 2020	Income Tax Department Refunded Rs. 62,361 crore to more than 20 lakh taxpayers during Covid days	CBDT reiterated that taxpayers should provide immediate response to emails of the Department so that refunds in their cases too could be processed and issued right away. Such emails of I-T Department seek taxpayers to confirm their outstanding demand, their bank account number and reconciliation of defect/mismatch prior to issue of refund. In all such cases, quick responses from the taxpayers would enable the I-T Department to process their refunds expeditiously	Click here to Read
8th July 2020	Memorandum of Understanding(MoU) between CBDT and SEBI signed today	The MoU will facilitate the sharing of data and information between SEBI and CBDT on an automatic and regular basis. In addition to regular exchange of data, SEBI and CBDT will also exchange with each other, on request and suo moto basis, any information available in their respective databases, for the purpose of carrying out their functions under various laws.	Click here to Read
12th July 2020	CBDT provides Utility to ascertain TDS applicability	In order to discourage cash transactions and move towards less-cash economy, the Finance (No.2) Act, 2019 had inserted section 194N in the Income-tax	Click here to Read

	rates on cash withdrawals	Act, 1961 w.e.f. 1st September, 2019 to provide for levy of TDS @ 2% on cash withdrawal exceeding Rs. 1 crore from a Bank/Post Office account/s subject to certain exceptions	
13th July 2020	Income Tax Department carries out search and survey operations in Rajasthan, Delhi and Mumbai	The Income Tax Department carried out search and survey operations on three groups on 13.07.2020. These operations are being carried out at 20 premises in Jaipur, 6 in Kota, 8 in Delhi and 9 in Mumbai	Click here to Read
17th July 2020	CBDT has refunded Rs. 71,229 crore so far to help taxpayers during Covid days	Income tax refunds amounting to Rs. 24,603 crore have been issued in 19.79 lakh cases to taxpayers and corporate tax refunds amounting to Rs. 46,626 crore in 1.45 lakh cases have been issued to taxpayers during Covid days	Click here to Read
18th July 2020	CBDT to start e-campaign on Voluntary Compliance of Income Tax for FY 2018-19 from 20th July, 2020	Under the e-campaign, the taxpayers will be able to access details of their high value transaction related information on the designated portal. They will also be able to submit online response by selecting among any of these options: (i) Information is correct, (ii) Information is not fully correct, (iii) Information related to other person/year, (iv) Information is duplicate/included in other displayed information, and (v) Information is denied. There would be no need to visit any Income Tax office, as the response has to be submitted online.	Click here to Read
18th July 2020	New Form 26AS is the Faceless hand-holding of the Taxpayers	<p>It is stated that the information being received by the Income Tax Department from the filers of these specified SFTs is now being shown in Part E of Form 26AS to facilitate voluntary compliance, tax accountability and ease of e-filing of returns so that the same can be used by the taxpayer to file her or his income tax return (ITR) by calculating the correct tax liability in a feel-good environment. This would also bring in further transparency and accountability in the tax administration.</p> <p>It is stated that the Form 26AS for any taxpayer, from now onwards, will display in part E of the Form, different fields such as, type of transaction, name of SFT filer, date of transaction, single/joint party transaction, number of parties, amount, mode of payment and remarks etc.</p>	Click here to Read
20th July 2020	Memorandum of Understanding(MoU) between CBDT and MoMSME signed today	<p>A formal Memorandum of Understanding (MOU) was signed today between the Central Board of Direct Taxes (CBDT) and the Ministry of Micro, Small and Medium Enterprises, Government of India (MoMSME) for sharing of data by CBDT to MoMSME. The MoU was signed by Smt. Anu J Singh, Principal Director General of Income Tax (Systems), CBDT and Shri. Devendra Kumar Singh, Additional Secretary & Development Commissioner, MoMSME</p> <p>The MoU marks the beginning of a new era of cooperation and synergy between the CBDT and MoMSME.</p>	Click here to Read
21st July 2020	Memorandum of Understanding(MoU) between CBDT and	This MoU will facilitate the sharing of data and information between CBDT and CBIC on an automatic and regular basis. In addition to regular	Click here to Read

CBIC signed today

exchange of data, CBDT and CBIC will also exchange with each other, on request and spontaneous basis, any information available in their respective databases which may have utility for the other organization.

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

Dated	Heading	In Brief	
10th July 2020	Order under section 119 of the Income-tax Act, 1961	Processing of returns with refund claims under section 143(1) of the Income-tax Act, 1961 beyond the prescribed time limits in non-scrutiny cases-regd	Click here to Read
14th July 2020	Order under section 138 for sharing the information with Ministry of MSME	The Information to be furnished shall be: a) Schedule DPM which is related to Depreciation on Plant and Machinery as reopened in ITR3, 5 and 6; b) Sales/Gross receipts of business as reported in ITR-3, 5 and 6; c) Gross Turnover/Gross Receipts as reported in ITR-4.	Click here to Read
16th July 2020	Order under section 138(1)(a) of the Income-tax Act, 1961	To facilitate the process of furnishing/receiving information, the extant Memorandum of Understanding ('MoU') between CBDT and FIU-IND dated 20.09.2013 will be reviewed to include Principal Director General of Income-tax (Systems), New Delhi and also to lay down the modalities of data exchange which is to inter-alia include mode of exchange of data in the context of CTRs as specified above, mode of exchange of data in the context of STRs (Suspicious Transaction Reports) in view of shift from FINnet to Insight portal based data exchange of STRs between FIU-IND and CBDT, maintenance of confidentiality, mechanism for safe preservation of data, weeding out after usage and sharing of feedback regarding usefulness and data quality of information in STRs to FIU-IND etc. The time line for furnishing information shall also be decided by Pro Director General of Income-tax (Systems) in consultation with FIU-IND and included in the said MoU	Click here to Read
21st July 2020	NATGRID Platform 1. Central Bureau of Investigation (CBI) 2. Directorate of Revenue Intelligence (DR1) 3. Enforcement Directorate (ED) 4. Central Board of Indirect Taxes & Customs (CBIC) 5. Cabinet Secretariat (CS) 6. Intelligence Bureau (IB) 7. Directorate General of GST (Intelligence) (DGGI) 8. Narcotics Control	The information to be furnished shall be: 1. PAN Details 2. TAN Details 3. Bank Account Details for PAN and FY 4. Return Summary information for PAN and FY (as per MOU) 5. TDS Summary Information for PAN and FY (as per MOU) 6. Any other information as mutually agreed While furnishing the information, the specified income-tax authority shall form an opinion that sharing of such information is necessary for the purposes of enabling the above mentioned agencies/bodies to perform its functions under their respective laws.	Click here to Read



	Bureau (NCB) 9.Financial Intelligence Unit (FIU-Ind) 10.National Investigation Agency (NIA)		
21st July 2020	Specified authority for furnishing information	Mapping of Income - tax payees of the relevant Assessment Years from the list of otherwise eligible beneficiaries under PM-KISAN Yojana on the basis of Aadhaar Numbers	Click here to Read

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

This is Gist of all important updates during **June & July 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
44/2020	08 th June 2020	Seeks to give effect to the provisions of Rule 67A for furnishing a nil return in FORM GSTR-3B by SMS	In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with rule 3 of the Central Goods and Services Tax (Fifth Amendment) Rules, 2020 (hereinafter referred to as the rules), made vide notification No. 38/2020 – Central Tax, dated the 5th May, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 272(E), dated the 5th May, 2020, the Government, hereby appoints the 8 th day of June, 2020, as the date from which the said provisions of the rules, shall come into force	Click here to Read
45/2020	09 th June 2020	Seeks to extend the date for transition under GST on account of merger of erstwhile Union Territories of Daman and Diu & Dadar and Nagar Haveli.	In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.10/2020- Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 193(E), dated the 21st March, 2020	Click here to Read
46/2020	09 th June 2020	Seeks to extend period to pass order under Section 54(7) of CGST Act.	In view of the spread of pandemic COVID-19 across many countries of the world including India, the Government, on the recommendations of the Council, hereby notifies that in cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, in such cases the time limit for issuance of the said order shall be	Click here to Read

			extended to fifteen days after the receipt of reply to the notice from the registered person or the 30th day of June, 2020, whichever is later	
47/2020	09 th June 2020	Seeks to amend Notification No. 40/2020 – Central Tax dated 05.05.2020 in respect of extension of validity of e-way bill generated on or before 24.03.2020 (whose validity has expired on or after 20th day of March 2020) till the 30th day of June.	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 whose validity has expired on or after the 20th March, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30st day of June, 2020.	Click here to Read
48/2020	19th June 2020	Seeks to make sixth amendment (2020) to CGST Rules.	<p>“Provided further that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 21st day of April, 2020 to the 30th day of September, 2020, also be allowed to furnish the return under section 39 in FORM GSTR-3B verified through electronic verification code (EVC).</p> <p>Provided also that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 27 th day of May, 2020 to the 30th day of September, 2020, also be allowed to furnish the details of outward supplies under section 37 in FORM GSTR-1 verified through electronic verification code (EVC)</p>	Click here to Read
49/2020	24 th June 2020	Seeks to bring into force Sections 118, 125, 129 & 130 of Finance Act, 2020 in order to bring amendment to Sections 2, 109, 168 & 172 of CGST Act w.e.f. 30.06.2020.	In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2020 (12 of 2020) (hereinafter referred to as the said Act), the Central Government hereby appoints the 30 th day of June, 2020, as the date on which the provisions of sections 118, 125, 129 and 130 of the said Act, shall come into force	Click here to Read
50/2020	24 th June 2020	Seeks to make seventh amendment (2020) to CGST Rules.	In the notification of the Government of India, in the Ministry of Finance, Department of Revenue, No. 50/2020-Central Tax, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 403(E), dated the 24th June, 2020, at page 3, in line 40, for the words	Click here to Read

			“turnover of taxable”, read “turnover of”.	
51/2020	24 th June 2020	Seeks to provide relief by lowering of interest rate for a prescribed time for tax periods from February, 2020 to July, 2020.	Provided that the rate of interest per annum shall be as specified in column (3) of the Table given below for the period mentioned therein, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who are required to furnish the returns in FORM GSTR-3B, but fail to furnish the said return along with payment of tax for the months mentioned in the corresponding entry in column (4) of the said Table by the due date	Click here to Read
52/2020	24 th June 2020	Seeks to provide one time amnesty by lowering/waiving of late fees for non furnishing of FORM GSTR-3B from July, 2017 to January, 2020 and also seeks to provide relief by conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to July, 2020.	Provided also that the total amount of late fee payable for a tax period, under section 47 of the said Act shall stand waived which is in excess of an amount of two hundred and fifty rupees for the registered person who failed to furnish the return in FORM GSTR-3B for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01 st day of July, 2020 to 30th day of September, 2020	Click here to Read
53/2020	24 th June 2020	Seeks to provide relief by waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods for months from March, 2020 to June, 2020 for monthly filers and for quarters from January, 2020 to June, 2020 for quarterly filers	In the notification of the Government of India, in the Ministry of Finance, Department of Revenue, No. 53/2020-Central Tax, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 406(E), dated the 24th June, 2020, at page 12, in line 17, for the words “third proviso”, read “fourth proviso”.	Click here to Read
54/2020	24 th June 2020	Seeks to extend due date for furnishing FORM GSTR-3B for supply made in the month of August, 2020 for taxpayers with annual turnover up to Rs. 5 crore.	Provided also that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep, the return in FORM GSTR-3B of the said rules for the month of August, 2020 shall	Click here to Read

			be furnished electronically through the common portal, on or before the 1 st day of October, 2020	
55/2020	27 th June 2020	Seeks to amend notification no. 35/2020-Central Tax in order to extend due date of compliance which falls during the period from "20.03.2020 to 30.08.2020" till 31.08.2020	<p>On the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020</p> <p>(i) for the words, figures and letters "29th day of June, 2020", the words, figures and letters "30th day of August, 2020" shall be substituted;</p> <p>(ii) for the words, figures and letters "30th day of June, 2020", the words, figures and letters "31st day of August, 2020" shall be substituted.</p>	Click here to Read
56/2020	27 th June 2020	Seeks to amend notification no. 46/2020-Central Tax in order to further extend period to pass order under Section 54(7) of CGST Act till 31.08.2020 or in some cases upto fifteen days thereafter.	<p>The Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.46/2020-Central Tax, dated the 9 th June, 2020</p> <p>(i) for the words, figures and letters "29th day of June, 2020", the words, figures and letters "30th day of August, 2020" shall be substituted;</p> <p>(ii) for the words, figures and letters "30th day of June, 2020", the words, figures and letters "31st day of August, 2020" shall be substituted.</p>	Click here to Read
57/2020	30 th June 2020	Seeks to amend notification no. 52/2020-Central Tax in order to provide conditional waiver of lat fees for the period from July, 2017 to July, 2020.	Provided also that for the class of registered persons mentioned in column (2) of the Table of the above proviso, who fail to furnish the returns for the tax period as specified in column (3) of the said Table, according to the condition mentioned in the corresponding entry in column (4) of the said Table, but furnishes the said return till the 30th day of September, 2020, the total amount of late fee payable under section 47 of the said Act, shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived	Click here to Read

			for those taxpayers where the total amount of central tax payable in the said return is nil	
58/2020	01 st July 2020	Seeks to make eighth amendment (2020) to CGST Rules	“67A. Manner of furnishing of return or details of outward supplies by short messaging service facility.- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.	Click here to Read
59/2020	01 st July 2020	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2019-2020	No. 21/2019- Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:- In the said notification, in the third paragraph, in the first proviso, for the figures, letters and words “15th day of July, 2020”, the figures, letters and words “31st day of August, 2020” shall be substituted	Click here to Read

2. Circulars:-

Circular No.	Dated	Heading	In Brief	
139/09/2020	10 th June 2020	Clarification on Refund Related Issues.	Various representations have been received seeking clarification on the issue relating to refund of accumulated ITC in respect of invoices whose details are not reflected in the FORM GSTR-2A of the applicant. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and	Click here to Read

			Services Tax Act, 2017 (hereinafter referred to as “CGST Act”)	
140/10/2020	10 th June 2020	Clarification in respect of levy of GST on Director's Remuneration.	Various references have been received from trade and industry seeking clarification whether the GST is leviable on Director's remuneration paid by companies to their directors. Doubts have been raised as to whether the remuneration paid by companies to their directors falls under the ambit of entry in Schedule III of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) i.e. “services by an employee to the employer in the course of or in relation to his employment” or whether the same are liable to be taxed in terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017 (entry no.6).	Click here to Read
141/11/2020	10 th June 2020	Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread COVID-19	It is clarified that the waiver of late fee is conditional to filing the return of the said tax period by the dates specified in the said notification. In case the returns in FORM GSTR3B for the said months are not furnished on or before the dates specified in the said notification, then late fee shall be payable from the due date of return, till the date on which the return is filed	Click here to Read

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

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