



ANIL AGRAWAL AND COMPANY

Chartered Accountants



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Tax [Direct & Indirect] News

Important Due Dates

- Company Law Settlement Scheme 2014 stands further extended till 31st December, 2014. MCA Circular no. 44/2014 dated 14.11.2014.
- Extension to 31-01-2015 of last date of e-filing CRA2 for appointment of Cost Auditor. No need to file it if 23C already filed for 2014-2015. [Circular 42 of 12-11-2014.]
- Statutory Auditor of NBFC to certify compliance of Minimum NOF of 1 crore by March, 2016 and 2 crore by March, 2017. Failure to result in cancellation of NBFC registration.
- (30-11-14)(Sunday) was last date for e-filing 3CD & IT/WT Returns for Cos & other assesses (Tax Audit cases). Last date for Transfer Pricing cases also.
- (17/11/2014) was the last date for e-filing/submitting copy of DVAT-16, 17 and 48 for Q2 of 2014-2015. DVAT circular 16 of 10/11/2014

Allowability of Deduction under Section 80C

Income tax section 80C deduction- Bank term Deposit limit increased to Rs. 1.50 lakh. Notification No. 63/2014, dated: November 13, 2014.

Application for Advance Ruling by India residents

- Threshold monetary limit for application for advance rulings amended
- CBDT amends rules, forms and fee requirements for advance rulings

CBDT Clarification Regarding Circular 3/2008

CBDT issues clarification in respect of earlier Circular 3/2008 explaining Revised Settlement Scheme which was put in place vide Finance Act, 2007; Earlier, Circular provided that assessment shall be deemed to be completed on the date of service of assessment order to the applicant; Observes this provision not in consonance with the provisions contained in Sec 245A(b) Explanation. Thus, CBDT clarifies that said circular be revised to the extent that assessment shall be deemed to be completed on date on which assessment order is passed as provided in Sec 245A(b)

Tax [Direct & Indirect] News

CBEC Circular No. 990/14/2014-cx-8 regarding Availment of CCR

CBEC has issued Circular No. 990/14/2014-CX-8 dated 19th November, 2014 to clarify that the limitation of six months on availment of CENVAT Credit inserted by Notification No. 21/2014-CE (NT) is only applicable on credit taken for the first time within six months of the issue of the Invoice.

For instance an invoice is issued on 01/Sep/2014 & CENVAT Credit is availed on 01/Sep/2014 as per rule 4(7) of CCR, 2004. However, Payment to vendor is not made within 90 days i.e. till the end of December. Therefore, CENVAT Credit availed is required to be reversed on or before the completion of 90 days. Thereafter, payment to vendor is made in September 2015. Now, the issue arises as to whether CENVAT Credit can be re-availed as per 3rd proviso to rule 4(7) of CCR, 2004 i.e. after the completion of six months. Now, CBEC, through this circular has clarified that it can be re-availed in September 2015 & there is no limitation on re-availment of such CENVAT Credit.

Tin Required For Making Sale at Trade Fair

DVAT dealers to use TIN for making sales at trade fair. Unregistered dealers from Delhi and out of Delhi to get registered as casual dealers.

DVAT Circular No. 19 Dated 27/11/2014

Extension to 09-01-2015 of last date for e-filing form 9 (Details of concessional interstate sales against forms C, F etc) for 2013-14. DVAT circular 19 of 27-11-2014.

DVAT: Sale of Goods to Embassies

Dealers selling goods to embassies etc. must issue tax invoices & mention same in DVAT 31 & Annexure 2B to enable them to take online VAT refund.

D-VAT: Filling Of Objections Online

VAT Dealers- in a recent change under the Delhi VAT, Objections against any order of the assessing Officer will only be filed online and manual objections which are not generated from the system will not be considered.

Regulatory (ROC, RBI & SEBI)

RBI Lays Stricter Norms For NBFCs: Raises Limit of net owned fund and revised provisioning norms of standard assets

RBI has issued revised regulatory framework for NBFCs. The key changes introduced to regulatory framework are delineated below:

It shall be mandatory for all NBFCs to attain a limit of minimum Net Owned Fund ('NOF') of Rs. 200 lakhs by the end of March 2017, as per the milestone given below:

- a) Rs. 100 lakh by the end of March 2016,
- b) Rs. 200 lakh by the end of March 2017.

NBFCs failing to achieve the aforesaid ceiling within the stipulated time shall not be eligible to hold the Certificate of Registration ('CoR') as NBFCs.

2) Existing unrated asset finance companies to get themselves rated by March 31, 2016.

3) Revised Systemic Significance: Now systemically important non-Deposit taking NBFCs ('NBFCs-ND-SI') should have asset size of Rs. 500 crore and above as per the last audited balance sheet.

4) NBFCs-D with minimum deposits of Rs. 20 crores, and NBFCs-ND with minimum asset size of Rs. 50 crores are required to constitute an Audit Committee.

5) The total assets of NBFCs in a group (including deposit taking NBFCs, if any) will be aggregated to determine if such consolidation falls within the asset sizes two categories, i.e., NBFCs-ND or NBFCs-ND-SI.

6) All NBFCs-ND with assets of Rs. 500 crore and above, irrespective of whether they have accessed public funds or not, shall comply with prudential regulations as applicable to NBFCs-ND-SI

Regulatory (ROC, RBI & SEBI)

7) The NBFCs-ND with asset size of less than Rs. 500 crores, are exempted from the requirement of maintaining Capital to Risk Asset Ratio (CRAR)

8) Revised criteria for NPA classification: The revised norms would reduce the period in a phased manner so that the norms would become at par with banks by March 31, 2018

9) Revised provisioning norms for Standard Assets: The provision for standard assets for NBFCs-ND-SI and for all NBFCs-D, had been increased to 0.40% will be phased in as given below:

a) 0.30% by Mar 2016. b) 0.35% by Mar 2017. c) 0.40% by Mar 2018

Compliance With CSR Requirements

W.e.f. 01.04.2014, CSR spending mandatory for PSEs as per Guidelines on Corporate Social Responsibility & Sustainability for Central Public Sector Enterprises.

MCA Circular No. 42/2014 Dated 12.11.2014 : Extension of Filing Date of Form CRA-2

MCA has issued clarification vide General Circular No. 42/2014 dated 12th Nov, 2014, on the Companies (Cost Records and Audit) Rules, 2014. Considering delay in availability of Form CRA-2 on the MCA website, Ministry has decided to extend the date of filing of the said Form without any penalty/late fee up to 31st January, 2015. Form CRA-2 will be made available on the MCA website soon and some of the companies who have filed Form 23C for appointment of Cost Auditor for the FY 2014-15 are not required to file form CRA-2 afresh for the FY 2014-15.

Sebi Circular No. CIR/MRD/DP/31/2014 Dated Nov 12, 2014 : Consolidated Account Statement

SEBI has vide its Circular No. CIR/MRD/DP/31/2014 dated Nov 12, 2014 decided to enable a Consolidated Account Statement (CAS) of all the investments of an investor in Mutual Funds (MF) and securities held in demat form with the Depositories. Consolidation of account statement shall be done on the basis of PAN. In case of multiple holding, it shall be PAN of the first holder and pattern of holding. The CAS shall be generated on a monthly basis. The AMCs /MF-RTAs shall provide the data with respect to the common PANs to the depositories within three days from the month end. The depositories shall then consolidate and dispatch the CAS within ten days from the month end. The CAS shall be implemented from the month of March 2015 with respect to the transactions carried out during the month of February 2015.

Extension Of Company Law Settlement Scheme 2014

Company Law Settlement Scheme 2014 stands further extended till 31st December, 2014. MCA Circular no. 44/2014 dated 14.11.2014.

De Recognition Of Delhi Stock Exchange

SEBI has passed the orders for de recognition of Delhi Stock Exchange (DSE), in exercise of the powers conferred in terms of sections 11(2)(j) and section 19 of the Securities and Exchange Board of India Act, 1992 read with section 5(2) and 12A of the Securities Contracts (Regulation) Act, 1956.

Latest Judicial Pronouncements (International tax)

ON ALP

Deputy Commissioner of Income-tax, Circle 1 (1), New Delhi v. Alcatel India Ltd. 51 taxmann.com 518 (Delhi - Trib.) [2014]

IT/ILT - ALP adjustments could be made only in respect of international transactions with AEs and could not be extended to transactions with non-AEs. Thus, TPO was directed to verify the computation of ALP adjustment and exclude the transactions with non-AEs while calculating ALP under TNM method.

ON TP

XL India Business Services (P.) Ltd v. Assistant Commissioner of Income-tax, Circle 18 (1), New Delhi 51 taxmann.com 549 (Delhi - Trib.) [2014]

IT/ILT: The Assessing Officer cannot make a reference to TPO unless the income-tax return is pending before the AO and the time-limit for issue of notice under Section 143(2) is available. Thus, reassessment made on basis of such report is not sustainable in law.

Toll Global Forwarding India (P.) Ltd. v. Deputy Commissioner of Income-tax, Circle -2(1), New Delhi 51 taxmann.com 342 (Delhi - Trib.) [2014]

IT/ILT: Where assessee, along with its associated enterprise, offers multi modal transportation services to business to business shippers through global freight forwarding services in relation to both import and export, 50:50 business model of sharing profits in equal ratio with service provider at other end of transaction, is a standard practice

Deputy Commissioner of Income-tax, Circle -11(1), New Delhi v. Exxon Mobil Gas (India) (P.) Ltd. 51 taxmann.com 256 (Delhi - Trib.) [2014]

IT/ILT : Non-operating incomes and non-operating expenses would be excluded while computing net operating profit under TNMM to determine profit level indicator of comparable company.

ON TP

Shell India Markets (P.) Ltd. v. Assistant Commissioner of Income-tax, LTU 51 taxmann.com 519 (Bombay) [2014]

IT/ILT : The Bombay High Court in the instant case held in favour of Shell India ('petitioner') on the issue of applicability of Transfer Pricing provisions in case of issue of shares. In this regard, the High relied upon decision in the case of Vodafone India Services (P.) Ltd. v. Union of India [2014] 50 taxmann.com 300 (Bombay). In case of Vodafone India(Supra) it was held that the jurisdiction to apply Chapter-X of the Act would occasion only when income arises out of International Transaction and such income was chargeable to tax under the Act.

ON DTAA

Delmas France v. Assistant Director of Income-tax (International Taxation) [2014] 51 taxmann.com 357 (Mumbai - Trib.)

IT/ILT : As per Article 5(6) of India-France DTAA, even if agent is wholly or almost wholly dependent on the foreign enterprise he still will not constitute dependent agent PE unless additional condition of the transactions being not at arm's length price is fulfilled. The initial onus is upon the Revenue to show that the transactions are not at arm's length price, thus, AO was directed to examine whether the transactions between the agent and assessee (i.e., foreign company) were at arm's length price and decide the issue afresh in the light of the provisions of Article 5(6) of India-French DTAA

About Us

We are a partnership CA firm of repute in New Delhi established in year 2009 with extensive cross functional experience of dealing with both multinational and domestic entities. We provide specialized services relating to International and domestic Taxation, Regulatory (ROC and RBI) and Assurance. The firm has been founded by Mr. Anil Agrawal, FCA who is alumni of Ernst & Young and has more than 12 years of experience in the fields of International Taxation and Regulatory matters. Our client comprises of Subsidiaries of foreign cos, Joint Ventures, Indian Corporates, LLPs, Firms, NGOs & HNI's.

We have dedicated team of Chartered Accountants, Company Secretary, Semi qualified and adequate support staff who are competent people with sharp insight and unique skill set. Our Current area of operation is NCR region comprising of Delhi, Gurgaon, Manesar and Noida. Our present multinational clientele includes clients from Turkey, USA, Australia, Dubai, Japan and Netherland.

OUR SPECIALIZATION SERVICE

Income Tax Assessment & Litigation

Transfer Pricing Audit/Assessment & Documentation

International & Domestic Tax Advisory & Compliance

Assurance/ Auditing Service

Expatriate Tax/ NRI Tax Advisory & Compliance

OUR OTHER SERVICES

- **Outsourcing of Accounting & Payroll**
- **DVAT/CST Advisory & Compliance**
- **Service Tax Advisory & Compliance**
- **Valuation Services**
- **FEMA/RBI regulations advisory & compliance**
- **Company law Advisory & Compliance**



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