



# ANIL AGRAWAL AND COMPANY

Chartered Accountants

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**Recent Amendments- Direct Tax**

• **Extension of Due date for e-furnishing of tax audit report under Section 44AB for AY 2014-15 to 30-11-2014**

Central Board of Direct Taxes (CBDT) extended the due date for obtaining and furnishing of the report of audit under section 44AB of the Act for Assessment Year 2014-15 in case of assesseees who are not required to furnish report under section 92E of the Act from 30th day of September, 2014 to 30th November, 2014 vide F.No.133/24/2014-TP dated 20/08/2014.

Further, CBDT had also clarified that the tax audit report under section 44AB of the Act filed during the period from 1st April, 2014 to 24th July, 2014 in the pre-revised Forms shall be treated as valid tax audit report furnished under section 44AB of the Act.

**Government notifies India-Fiji DTAA**

An Agreement between the Government of the Republic of India and the Government of the Republic of Fiji for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed in India on the 30th January, 2014. On 15th of May 2014 an agreement entered into force, being the date of the later of the notifications of the completion of the procedures required by the respective laws for entry into force of the Agreement.

**Government notifies revised DTAA between India and Malta**

Revised DTAA between India and Malta w.e.f. from April 1, 2015 notified.

**President Assent of Finance Bill 2014**

Finance (No 2) Bill 2014 becomes Finance (No 2) Act 2014 on 06-08-2014 with President assent. Provisions applicable from passing of budget applicable w.e.f. 06-08-2014.

**Recent Amendments- Indirect Tax**

**Delhi VAT reconciliation return**

Delhi VAT- Reconciliation returns in CST Form 9- all eligible dealers are required to furnish relevant information for the year 2013-2014 latest by 30/09/2014.

**No assessment order in case assessee availed Amnesty Scheme**

DVAT Dept to cancel Assessment orders in system in certain cases where DSC-3 issued but subsequently dealer has availed Amnesty Scheme [circular 7 of 05-08-2014].

**Due date for dealer returns under MVAT**

30-09-2014 is last date for MVAT dealers to file returns up to Feb 2014 by paying late fee of Rs. 1000 for each return instead of Rs. 5000 [Trade circular 13T of 02-08-2014].

**Service Tax- Certain changes in Negative List**

Finance (No. 2) Act 2014 had proposed certain changes in Negative List which were to be applicable from a future date to be notified. These changes have now been effected from 1st October, 2014 vide Notification No. 18/2014-ST dated 25th August, 2014.

Consequent to the efficacy of the notification, following shall be the impact.

Service Tax will be applicable on:

Radio Taxi (the abatement presently available to rent-a-cab service would also be made available to radio taxi service, to bring them on par); and

Advertisements in internet websites, out-of-home media, on film screen in theatres, bill boards, conveyances, buildings, cell phones, Automated Teller Machines, tickets, commercial publications, aerial advertising, etc. (sale of space for advertisements in newspapers, book other than business directories/yellow pages/trade catalogues would continue to be non-taxable)

**Recent Amendments- Regulatory**

**COMPANY LAW SETTLEMENT SCHEME- 2014 (CLSS-2014)**

CLSS-2014 has been launched by MCA, vide General Circular no. 34/2014 dated 12.08.2014. The scheme gives an opportunity to the defaulting companies to enable them to make their default good by filing belated documents. [Scheme applicable Between 15<sup>th</sup> Aug- 15<sup>th</sup> Oct, 2014]

Corporate can avail the following benefits:

1. Immunity from prosecution for delayed filing
2. A reduced additional fee of 25% of the actual additional fees payable
3. Escape for directors disqualified under section 164(2) of Companies Act, 2013

CLSS shall not apply to the filing of belated documents other than the following:

1. Form 20B.
2. Form 21A.
3. Form 23AC, 23ACA, 23AC-XBRL and 23ACA-XBRL- Forms for filing Balance Sheet and Profit & Loss account.
4. Form 66- Form for submission of Compliance Certificate with the Registrar.
5. Form 23B- Form for intimation for Appointment of Auditors.

Further, CLSS shall not apply in the following cases:

1. Co's against which action for striking off the name under sub-section(5) of section 560 of Companies Act, 1956 has already been initiated by ROC or
2. Where any application has already been filed by the companies for action of striking off name from the Register of Companies or
3. Where applications have been filed for obtaining Dormant status under section 455 of the Companies Act, 2013
4. Vanishing companies

**Latest in Judiciary [ International Tax]**

**On Transfer pricing**

**Cushman & Wakefield India (P.) Ltd. vs. Assistant Commissioner of Income-tax, Circle-3 (1), New Delhi [2014] 47 taxmann.com 380 (Delhi - Trib.)**

ITAT deletes TP adjustment for services rendered among AEs following its earlier ruling.

Where TPO made certain addition to assessee's ALP taking a view that since group concerns did not render any services to assessee, value of transactions relating to reimbursement of salary expenses to those concerns was to be taken at nil, in view of fact that in earlier assessment year Tribunal had recorded a finding of fact that group companies infact rendered liaisoning and other support services to assessee abroad, in absence of any change in circumstances during relevant year, following aforesaid finding of Tribunal, impugned addition was to be deleted.

**On Transfer pricing**

**Danisco (India) (P.) Ltd. vs. Assistant Commissioner of Income-tax, Circle-10(1), New Delhi [2014] 48 taxmann.com 60 (Delhi - Trib.)**

ITAT directs afresh examination as TPO denied chance of hearing to assessee and failed to examine its objects:

Where TPO in making transfer pricing adjustment had not afforded any opportunity of being heard to assessee and even failed to examine contentions and arguments of assessee in this regard; approach adopted by TPO was not justified, matter was to be remanded for fresh adjudication.

**Latest in Judiciary [ International Tax]**

**On Transfer pricing**

**Mitsubishi Corporation India (P.) Ltd vs. Additional Commissioner of Income-tax [2014] 48 taxmann.com 45 (Delhi)**

Operating ratio couldn't be basis of comparison if assessee was doing trading and not agency business as declared. Where assessee entered into transactions of sales and purchases of goods with its AE located abroad on principal to principal basis which were akin to trading transactions, authorities below were justified in rejecting assessee's contention that while determining ALP appropriate ratio to be considered for comparing with other entities would be ratio of net revenue to operating costs.

**On PE**

**Samsung India Electronics (P.) Ltd. vs. Deputy Director of Income-tax, Circle -2(2), International Taxation [2014] 47 taxmann.com 379 (Delhi)**

Income from resale of goods bought from holding co. not taxable if its subsidiary won't constitute its PE in India.

Where assessee, purchased raw materials and spares from its holding company located abroad, in view of fact that assessee did not constitute agency PE of holding company in India, no taxable income accrued to holding company on account of sales in India and, thus, assessee was not liable to deduct tax at source while making payments to holding company.

**Latest in Judiciary [ International Tax]**

**On Royalty**

**Director of Income-tax (International Taxation)-II, Mumbai vs. Haldor Topsoe [2014] 48 taxmann.com 67 (Bombay)**

Sum received for supply of equipment with user guide on how to install and use it, couldn't be taxable as royalty -IT/ILT: Where contract for supply of equipment and spare parts included stipulations for giving information so as to guide Indian party to install equipment at site and thereafter to use it, payment to assessee-Danish company would not be royalty.

**On PE**

**JC Bamford Investments Rocester vs. Deputy Director of Income-tax, Circle -3(1), International Taxation, New Delhi [2014] 47 taxmann.com 283 (Delhi - Trib.)**

Secondment of employee by group Co. to Indian affiliate for managerial services constitutes its service PE in India -IT/ILT: Where in terms of licence agreement entered into between assessee, a UK based company, and its Indian group concern, certain employees were seconded to Indian company to render services relating to manufacturing of Excavator loader in India, in view of fact that seconded employees furnished services including managerial services for a period of more than 90 days during relevant assessment years, Assessing Officer rightly concluded that service PE of assessee was established in India in terms of article 5(2)(k) of India - UK DTAA

**Latest in Judiciary [ International Tax]**

**On PE**

**[2014] 42 taxmann.com 50 (Delhi)**

Where an assessee does not have any branch office or factory or workshop in India and merely because it has a subsidiary in India that by itself does not create a fixed place of business/location PE within meaning of article 5, paragraph 2, sub-clauses (b) to (k) of India-US DTAA

Indian entity i.e. subsidiary company will not become location PE under article 5(1) of India-US DTAA merely because there is interaction or cross transactions between Indian subsidiary and foreign Principal

Transactions between a foreign enterprise and an independent agent, do not result in establishment of a permanent establishment under paragraph 5 to article 5 of India-US DTAA if independent agent is acting in ordinary course of its business

**NHK Japan Corp. M/S Eli Lilly & CO.(I)LD [TS-505-SC-2014]**

SC approves Delhi HC judgment, dismisses Revenue's SLP; HC had held that assessee cannot be regarded as 'assessee in default' u/s 201 for non-deduction of tax at source on "debatable" issue of expatriates salary; HC had rejected Revenue's argument that assessee failed to pay Indian tax on 'citizen tax' paid in Japan on behalf of expatriates; HC had followed SC ruling in assessee's own case wherein SC relying on Eli Lilly & Co. ruling observed that taxation of expatriate salary was 'debatable' : SC

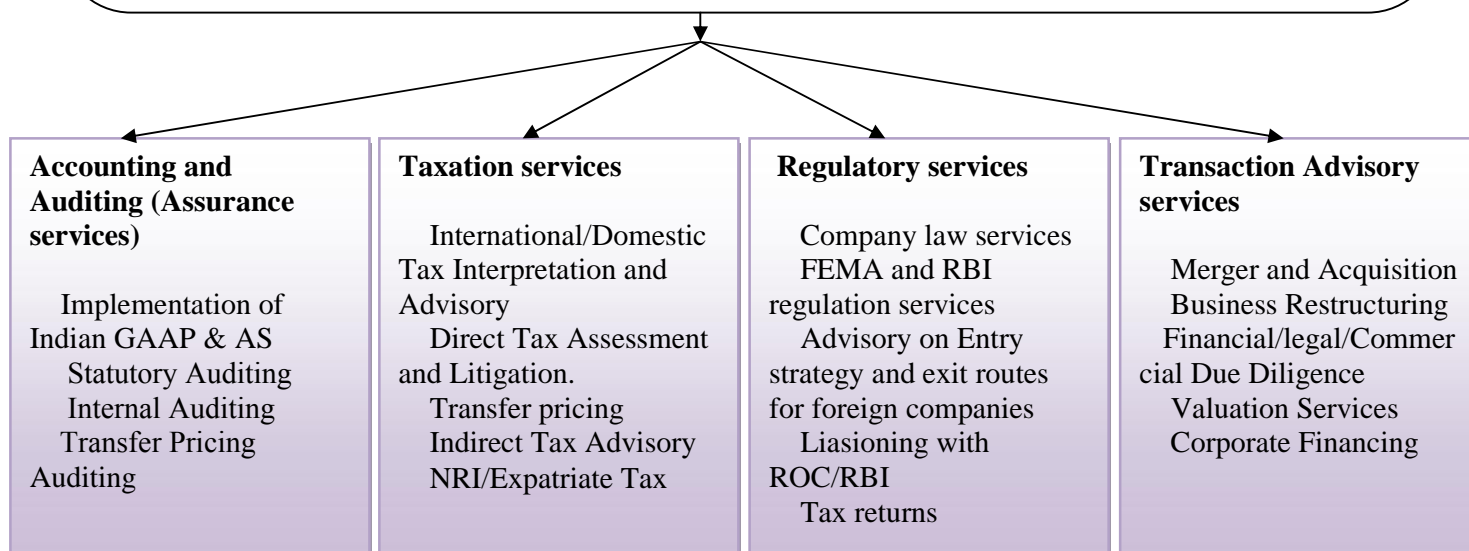


## ABOUT US

We are a partnership CA firm engaged in providing consulting services to Indian and multinational clients. 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 Taxation, Auditing and Regulatory matters. Our client comprises of Corporates, LLP, Firms, NGOs & HNI's. Our present multinational clientele includes clients from Turkey, USA, Australia, Dubai, Japan and Netherland.

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



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