



ANIL AGRAWAL AND COMPANY

Chartered Accountants



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DIRECT TAX

NEWSLETTER APRIL 2014

CBDT issued CIRCULAR NO. 9/2014, Dated: 23-04-2014 in regard to Clarification for treatment of expenditure incurred for development of roads / highways in BOT agreements under Income-tax Act, 1961

Bombay High Court grants ad interim stay against operation of notices under section 234E, levying fee for failure to file TDS statement

Last date for deposit TDS u/s 194IA on Property and TCS of March is 07-04-2014 (Monday). Govt. Deductors to deposit other TDS of March with challans by 07-04-2014 and others by 30-04-2014. TDS return to be filed by 15/05/2014

The CBDT has announced the setting up of “National Judicial Reference System” (NJRS). NJRS comprises of 2 components, the “Appeals Repository and Management System” and the “Judicial Research and Reference System”

The Finance Ministry has released a revised and comprehensive “Direct Taxes Code 2013” containing several changes with far reaching implications. Tax rate is 35% if Income exceeds 10 Crore for Individuals, HUF etc. Tax rate is 10% if Dividend exceeds 1 Crore

All Firms/AOP/BOI to file returns electronically. Use of digital signature mandatory for firms where Tax Audit applicable.

Mandatory E-Filing of ITR for A Y 2014-15 in case of Individual and HUF only when total income exceeds Rs 5 lakhs.

INDIRECT TAX

Facility of Digital Signature

Facility to DVAT Dealers to upload information/ file returns using Digital Signature [Notification No. F.3(21)Fin(Rev-I)2013-14/dsvi/347 of 26-03-2014].

Penalty waived off

No Penalty if Form 704 for 2012-13 filed by 10-05-14 (extended from 31-03-2014) by developer (other than Composition Dealer) [MVAT Trade Circular 6T of 21-02-2014].

Non carry forward of Tax credit

Claim Refund of Excess Tax Credit of 2013-14 or earlier years in DVAT Return for quarter ended 31-03-2014. Same cannot be carried forward [Sec 11(2)].

Excel utility now available on ACES

Service Tax Return (ST-3) excel utility for the period of October 2013 to March 2014 i.e. second half of the financial year 2013-14 is now available in ACES for e-filing by the assesses in both offline and online version. The last date of filing the ST-3 return for the said period is 25-04-2014.

Exemption for Rice from Service Tax

In Service Tax, exemption has been granted to 'rice' treating it as agricultural produce. Thus, storage, warehousing, packing, loading, unloading etc for rice would be exempt from Service Tax. Earlier only paddy was exempt.

Modification in form A-1

Necessary modifications have been made in Form A-1 to enable registration of 'Importers' as a separate category of Registrants in Central Excise to enable them to pass on Cenvat credit vide Notification No 10/2014 dated 28-02-2014 [Notification No. 10/2014].

Dealer filing the VAT returns online by using digital signature need not file return verification form in DVAT 56 [Circular No. 2 of 2014-15 dated 23/04/2014]

Due date of online Filing DVAT return in DVAT 16, DVAT 17 and TDS return in DVAT 48 and furnishing of hard copies has been extended to 09/05/2014 vide (Circular No. 3/2014-15 dated 28/04/2014)

Delhi VAT Commissioner has given assurance to dealers that no Form T-2 shall be imposed till the formation of new government.

Excess Tax credit of DVAT for 2013-14 and earlier years shall be claimed as refund in DVAT return for Q4 for year 2013-14. The same cannot be carried forward to next year.

With effect from 01/04/2014, Importers issuing invoices on which Cenvat credit can be taken, has to register with CBEC and e file quarterly returns in 15 days (Notification 8,9,10 & 11 of 28/02/2014)

Due date for filing DVAT returns in form Bank-1 for Quarter 4 by banks with branches in Delhi and selling Gold, Silver and Reprocessed vehicles was 28/04/2014

Compulsion of printing details on letter heads, notices etc

Every Company to print Name, Address of Registered Office, CIN, Phone/Fax no, E-mail and Website Address on Letter heads, Notices etc [Sec 12(3) (c) of Companies Act, 2013]

Restriction on Auditor's Rotation

No Auditor Rotation if paid up capital less than 10 Crore for Unlisted Public Company's and 20 Crore for Private Company's [Companies (Audit & Auditor) Rules, 2014 w.e.f 01-04-2014].

Compulsion of Secretarial Audit

Mandatory Secretarial Audit for every Listed Company and Public Company having Paid-up Share capital of 50 Crore or more or Turnover of 250 Crore or more.

Section 135 of Companies Act 2013 notified

Section 135 of the Companies Act 2013, Schedule VII and the relevant rules, namely Companies (Corporate Social Responsibility Policy) Rules, 2014 have been notified to become effective from 1st April 2014 vide MCA notification dated 27-02-2014.

Compulsion of inclusion of Directors

Every Listed Company and Public Company having paid-up share capital of Rs 10 cr or more to have (a) MD, CEO, Manager or Whole-time Director (b) CFO (c) CS..

With effect from 01/10/2014, every listed companies has to follow clause 49 revised as per Corporate Governance norms of Companies Act 2013.[Cir. CIR/CFD/ Policy Cell 2/2014 of 17/04/2014

MCA has released general circular no. 09/2014 dated 25th April 2014 in relation to availability of E-forms and non E-forms under Companies Act 2013 wef 28/04/2014

wef 28/04/2014, newly notified 46 E-forms available for e-filing. 17 Non E-forms to be e-filed using 3 general e-forms [General Circular 9 of 25/04/2014]

Unlisted Companies raising funds abroad to comply with SEBI's disclosure norms at time of listing in India. [Notif. No. GSR 282(E) (9F.No. 4/13/2012-ECB) Dated 15/04/2014

Transfer Pricing – Mumbai Tribunal in case of Technocraft Industries (India) Ltd Vs Addl CIT 43 Taxmann 110 [2014] Mum ITAT

It was held that Guarantee fee paid to the bank, for providing working capital facilities to a foreign wholly owned subsidiary was subject to Transfer Pricing

Delhi High Court in case of Sony India pvt Limited Vs Addl. CIT

The Assessing Officer after rejected the stay application filed by the assessee, must wait for a reasonable period before taking coercive steps to recover the amounts u/s 226 of the Act. The opportunity must be afforded to the assessee

Supreme Court in case of Samsung India Electronics Ltd. [TS-189-SC-2014]

SC dismisses Revenue's SLP against Delhi HC ruling in Samsung India's case; HC held no disallowance u/s 40A(2)(b) could be made on raw material imports from parent company, Samsung Korea, as imports made at reasonable / competent rates which were neither excessive nor unreasonable; Purchase prices more or less constant over years and also accepted by Customs authorities; Assessee discharged initial onus cast upon it and thereafter, onus shifted on Revenue to demonstrate that prices paid were excessive or unreasonable, held HC; SC ruling in Upper India Publishing House and Delhi HC ruling in Shriram Pistons and Rings Ltd relied, Revenue's reliance on Madras HC ruling in NEPC India Ltd rejected

Mumbai ITAT in case of Viacom 18 Media Private Limited [TS-179-ITAT-2014(Mum)]

Satellite transponder service payment by Viacom India to Intelsat Corporation, USA taxable as 'royalty', subject to TDS; Definition of 'royalty' under Act and India-US DTAA in pari materia; By virtue of Article 3(2) of DTAA, as term 'process' not defined under DTAA, its definition under Act to apply, which includes transponder payment; 'Process' definition in Explanation 6 to Sec. 9(1)(vi), by way of retrospective amendment, clarified; Amendment did not amend definition of 'royalty' per se; Relies on Madras HC ruling in Verizon and distinguishes Bom HC ruling in Siemens Aktiengesellschaft; Delhi HC ruling in Asia Satellite Communication Co. Ltd. not applicable in view of insertion of Explanation below sub-section (2) of Sec. 9 and Explanation 6 to Sec. 9(1)(vi)

OUR AREAS OF OPERATION

Accounting and Auditing (Assurance services)

Implementation of Indian GAAP & AS
Conversion of financial statement from Indian GAAP to IFRS/ US GAAP
Assurance services

Taxation services

Domestic Tax Interpretation and Advisory
International Tax Interpretation and advisory
Indirect Tax Advisory
Merger and Acquisition

Regulatory services

Company law services
FEMA and RBI regulations
Advisory on Entry strategy and exit routes for foreign companies
Liasioning with ROC/RBI
Tax returns

Transaction Advisory services

Merger and Acquisition
Business Restructuring
Financial/legal/Commercial Due Diligence
Valuation Services
Corporate Financing

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