

FOCAL POINT

Newsletter from Raju and Prasad Chartered Accountants

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Dear Reader,

The Policy updates and Verdicts of Supreme Court and High Court of Allahabad are enclosed in this newsletter.

Attention of readers is invited to the extension of due date for GSTR-9, GSTR-9A and GSTR-9C, Extension of due date by SEBI for transfer of securities only in Demat form and the decision of Honorable Supreme Court of India in Director of Income-tax (Exemptions) v. Delhi Public Schools Society.

Regards

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Policy Watch

Indirect Taxes



Extension of due date for filing Form GSTR-9, GSTR-9A, GSTR-9C

The Central Board of Indirect Taxes and Customs Vide Press Release dated 7th December 2018 has decided to extend the due date for filing FORM GSTR-9, FORM GSTR-9A (Annual Returns) and FORM GSTR-9C (Reconciliation statement) till 31st March, 2019.

http://cbic.gov.in/resources//htdocs-cbec/press-release/Press_Release_0712.pdf;jsessionid=5BE64F15B1F45883BFA021486D1ED66E

Extension of due date for filing of FORM GSTR – 7 for the months of October, 2018 to December, 2018

The Central Board of Indirect Taxes and Customs Vide Notification No 66/2018 – Central Tax dated 29th November 2018 has extended the time limit for furnishing GSTR 7 (i.e. person who is required to deduct tax at source in accordance with the



provisions of section 51 of CGST Act) till 31st January 2019.

<http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-66-central-tax-english-2018.pdf>

SEBI



Disclosure of reasons for delay in submission of financial results by listed entities

Regulation 33 of The SEBI Listing Regulations, 2015 specifies that, listed entities shall submit quarterly and annual financial results to stock exchanges within 45/60 days from the end of the quarter/financial year. Wherever there were delays in submission in the past, the fact of delay was intimated by the listed entity, the reasons for the same were

not disclosed. Therefore, SEBI vide its Circular No CIR/CFD/CMD-1/142/2018 dated 19th November 2018 has introduced a new requirement whereby the listed entity shall disclose detailed reasons for such delay to the stock exchanges within one working day of the due date for the submission of financial results.

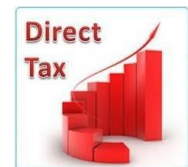
https://www.sebi.gov.in/legal/circulars/nov-2018/disclosure-of-reasons-for-delay-in-submission-of-financial-results-by-listed-entities_41040.html

Transfer of securities only in demat form- Deadline extended till 1st April, 2019

The SEBI on March 28, 2018 decided that except in case of transmission or transposition of securities, requests for effecting transfer of securities shall not be processed unless the securities are held in the dematerialized form with a depository. This measure was to come into effect from December 5, 2018. Subsequently, SEBI has received representations from shareholders for extension of the date of compliance. In view of the same, SEBI vide its Press Release No. 49/2018 dated 03rd December 2018 has extended the

deadline for compliance of the aforesaid requirement till 1st April, 2019.

https://www.sebi.gov.in/media/press-releases/dec-2018/transfer-of-securities-only-in-demat-form-deadline-extended-till-april-1-2019_41214.html



Direct Tax

TDS deduction under section 194A of the Income-tax Act, 1961 in case of Senior Citizens

It has been brought to the notice of CBDT that in case of Senior Citizens, some Banks are making TDS deductions even though the amount of income does not exceed fifty thousand rupees. In view of this, The Central Board of Direct Taxes vide Notification No. 06/2018 dated 06th December, 2018 has clarified that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees.

https://www.incometaxindia.gov.in/communications/notification/notification6_2018_tds.pdf



RBI Updates

Relaxation on guidelines to NBFCs on securitisation transactions

In order to encourage NBFCs to securitise/assign their eligible assets, Reserve Bank Of India vide its Notification No. RBI/2018-19/82 dated 29th November 2018 has decided to relax the Minimum Holding Period (MHP) requirement for originating NBFCs. MHP in respect of loans of original maturity above 5 years shall be till the receipt of repayment of six monthly instalments or two quarterly instalments, subject to the following requirement:-

Minimum Retention Requirement for such securitization / assignment transactions shall be 20% of the book value of loans being securitized / 20% of the cash flows from the assets assigned.

<https://www.rbi.org.in/Scripts/NotificationUs er.aspx?id=11422&Mode=0>



Maintenance of Statutory Liquidity Ratio (SLR)

Reserve Bank Of India vide its Notification No. RBI/2018-19/86 dated 05th December 2018 has decided to reduce the Statutory Liquidity Ratio (SLR) requirement of banks by 25 basis points every calendar quarter from 19.50 per cent of their Net Demand and Time Liabilities (NDTL) to

- (i) 19.25 per cent from January 5, 2019
- (ii) 19.00 per cent from April 13, 2019
- (iii) 18.75 per cent from July 6, 2019
- (iv) 18.50 per cent from October 12, 2019
- (v) 18.25 per cent from January 4, 2020
- (vi) 18.00 per cent from April 11, 2020.

<https://www.rbi.org.in/Scripts/NotificationUs er.aspx?id=11427&Mode=0>

Verdicts

Direct Tax

Direct Tax

Where the assessee society was set up with object of imparting education and it had entered into franchise agreements with satellite schools and also used gains arising out of these agreements in form of franchisee fees for furtherance of educational purposes, it fulfilled requirements to qualify for exemption under section 10(23C)(vi)

- Decision of Supreme Court of India in Director of Income-tax (Exemptions) v. Delhi Public Schools Society

Facts of the case:

1. Assessee society was set up with main object to establish educational institutions. It had been claiming exemption under section 10(22) since assessment year 1977-78.
2. In view of substitution of section 10(22) with section 10(23C)(vi) with effect from 1-4-1999, assessee



applied for approval of exemption under section 10(23C)(vi) for assessment year 2008-09 onwards.

3. Additional Director rejected assessee's application on grounds that assessee had entered into franchise agreements for opening schools and franchisee fee received by it from satellite schools in lieu of its name, logo and motto amounted to a 'business activity' with a profit motive and no separate books of account were maintained by assessee for business activity as required under section 11(4A).
4. High Court by impugned order held that since the assessee had maintained the accounts in compliance to seventh proviso to section 10(23C)(vi) and section

11(4A) which was audited in detail and, further, surpluses accrued in form of franchisee fee from satellite schools were feedback into maintenance and management of assessee schools themselves, assessee had fulfilled requirements to qualify for exemption under section 10(23C)(vi).

5. Later, a special leave petition (SLP) was filed with Supreme Court against the High court ruling.

Judgement : The SLP filed by the Director of Income Tax (Exemptions) has been dismissed and upheld the order of High Court.

<https://www.taxmann.com/filecontent.aspx?Page=CASELAWS&id=101010000000185054&isxml=Y&search=&tophead=true&tophead=true>

SLP dismissed against High Court ruling that where, during scrutiny assessment, Assessing Officer raised several queries asking assessee to justify its claim of deduction under section 10B and after considering assessee's detailed reply allowed deduction, he could not reopen assessment

to examine another facet of said claim

- Decision of Supreme Court Of India in Deputy Commissioner of Income-tax v. Qx Kpo Services (P.) Ltd.

Facts of the case:

1. For Assessment year 2011-12, Assessee filed its return of income after claiming deduction under section 10B.
2. During scrutiny assessment, Assessing Officer had raised several queries asking assessee about its claim of deduction under section 10B.
3. Assessee replied to such queries in detail, upon which Assessing Officer (AO) passed an assessment order under section 143(3) allowing said claim of deduction.
4. After four years, the AO issued reassessment notice against assessee on two grounds;
 - a. No deduction under section 10B could be allowed to assessee as it had not filed its return on or before due date specified under section 139;

- b. There was no proof on record that there was ratification from Board of Approval for EOU scheme that assessee was hundred per cent EOU.
5. High Court of Gujarat has held that since Assessing Officer, in original assessment had thoroughly scrutinized claim of deduction under section 10B and allowed same, he could not reopen assessment to examine another facet of said claim.
6. Aggrieved by the order of the High Court, the Assessing Officer has filed a Special leave petition with The Supreme Court of India.

Judgement: The Supreme Court of India has held that the SLP filed against impugned order was to be dismissed and upheld the order of High Court.

<https://www.taxmann.com/filecontent.aspx?Page=CASELAWS&id=10101000000184905&isxml=Y&search=&tophead=true&tophead=true>

Verdicts

Goods & Services Tax

Where Assistant Commissioner had cancelled registration of assessee on ground that it was not carrying any business and its business was lying closed, since assessee was not served with any show cause notice in proper mode as prescribed under Act and impugned order had been passed only on basis of prima facie opinion, said order was in violation of principles of natural justice and deserved to be set aside

- Decision of High Court of Allahabad in Kashi Bartan Bhandar v. State of U.P.

Facts of the case:

1. The Assistant Commissioner by an order dated 27-1-2018 had cancelled the registration of the assessee on the ground that it was not carrying any business and its business was lying closed.
2. On writ petition, the assessee contended that (i) the impugned order was in violation of principles of natural justice as the show cause

notice alleged to have been issued on 18-1-2018 was never sent in any proper mode as prescribed under the Act and was not served upon it.

3. The revenue, on the other hand, submitted that the show cause notice was sent to the assessee at its e-mail address as provided by it. It was also sent by messenger and affixed at the place of business of the assessee.
4. On being specifically asked as to the basis on which the Assistant Commissioner has drawn the conclusion that the assessee is not carrying any business and its business is lying closed, the revenue was unable to point out any such basis except to submit that as no one was found at the place of business when the messenger had gone there, it was presumed that the business is lying closed.
5. In the instant case, there is nothing on record to show that the Assistant Commissioner had come to any conclusion that all the modes as prescribed under the Act are not practicable for the service of notice and has directly resorted to

service by affixation. In such a situation, service, if any, by affixation cannot be regarded as a proper service.

Judgement: In view of the aforesaid, the impugned order of the Assistant Commissioner was set aside.

<https://www.taxmann.com/filecontent.aspx?Page=CASELAWS&id=101010000000184993&isxml=Y&search=Where+Assistant+Commissioner+had+cancelled+registration+&thead=true>

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