

FOCAL POINT

Newsletter from Raju and Prasad Chartered Accountants

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Dear Reader,

The Policy updates and Verdicts of Various High Courts are enclosed in this newsletter.

We would like to draw your attention to various important updates, including MCA update on extension of due date for filing Form PAS-7, MGT-6 & BEN-2 and regarding RBI Update on Release of foreign exchange for Miscellaneous Remittances. Various intriguing case laws on Direct and Indirect Taxes are also enclosed in the newsletter.

Hope this issue will find you and your near & dear in good health. Be safe, and healthy

Regards

For Raju and Prasad

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"If you risk nothing, then you risk everything."

- Geena Davis

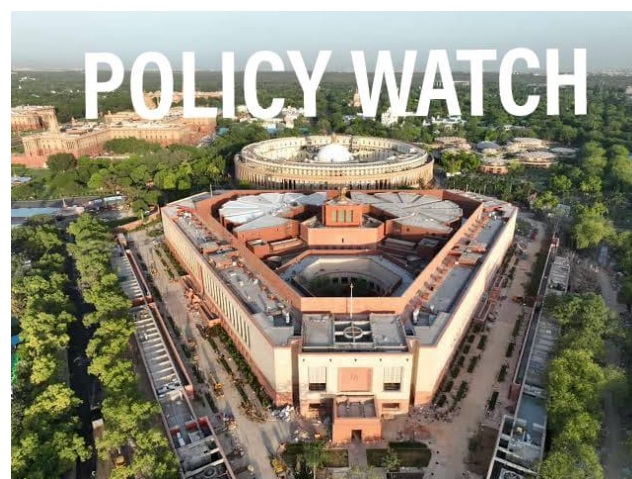
Policy Watch

MCA

Extension of time for filing of PAS-7

According to Rule 9(2)(a) of the Companies (Prospectus and Allotment of Securities) Rules, 2014, every public company that issued share warrants before the commencement of the Companies Act, 2013 but has not converted these warrants into shares, must notify the Registrar about the specifics of these share warrants using Form PAS-7. This notification should have been submitted within three months from the introduction of the Companies Second Amendment Rules, 2023.

In compliance with this rule, the Ministry of Corporate Affairs has introduced Web-form PAS-7 for submitting details of share warrants to the Registrar. This form is now available on the MCA-21 Portal. Stakeholders are encouraged to submit the required information as



per the Companies Second Amendment Rules, 2023 using this Web-form. Importantly, no additional fees will be charged for submissions made through this form until 5th August 2024.

Filing of Forms BEN-2, MGT-6 in MCA 21 Portal from 4th July,2024 to 14th July,2024.

It is to inform that the Ministry of Corporate Affairs is launching E-form MGT-6 and BEN-2 in MCA-21 Version 3.0 on 15.07.2024. These e-Forms will not be available in MCA21 Version-2 from 04.07.2024 to 14.07.2024,

Keeping in view the above, it has been decided to allow additional time of 15 days, without levying

additional fees, in cases where the due dates for filing of these 2 forms fall during the period between 04.07.2024 and 14.07.2024

RBI Updates



Release of foreign exchange for Miscellaneous Remittances.

In terms of the direction issued under the A.P. (DIR Series) Circular No. 16, 55, 118, Authorised Dealers are permitted to release foreign exchange for any current account transaction, on the basis of a simple letter containing basic information and subject to an upper limit of USD 25,000 or its equivalent. It was also advised that Authorised Dealers need not obtain any other documents, including Form A2, and that the payment was to be made by the applicant through Demand Draft or a cheque drawn on his / her bank account.

With a view on streamlining the regulatory compliances and

operational procedures, it is now decided that Authorised Dealers shall obtain Form A2 in physical or digital form for all cross-border remittances irrespective of the value of transaction. Consequently, the above-mentioned circulars stand withdrawn with immediate effect. Authorised Dealers shall continue to take necessary steps, in terms of Section 10(5) of Foreign Exchange Management Act, 1999, to assure themselves that such transactions do not involve any contravention of the provisions of FEMA.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12696&Mode=0>

SEBI



Launch of Settlement Calculator BETA

In order to simplify and provide more transparency in the process of arriving at the indicative settlement amount in terms of the parameters laid down in the SEBI (Settlement Proceedings) Regulations, 2018, SEBI

has launched the Settlement Calculator (BETA version).

This Settlement Calculator contains fields that the applicant may identify in terms of the violations and also enables the applicant to select the appropriate options with respect to their past regulatory track record on the basis of actions of SEBI as well as the details of other ongoing proceedings, if any, as on date of filing the settlement application.

A user-friendly guide video has also been included in the Settlement Calculator for the ease of understanding the process of arriving at the indicative settlement amount.

The BETA version of the Settlement Calculator is available on the SEBI website from today and can be accessed from the link <https://www.sebi.gov.in/set-cal.html>
https://www.sebi.gov.in/media-and-notifications/press-releases/may-2024/settlement-calculator-beta-sebi-settlement-proceedings-regulations-2018_83688.html

Verdicts

Direct Tax

Direct
Tax

Act: The Income Tax Act, 1961

Where assessee's application for registration under section 12A(1)(ac)(iii) and approval under section 80G(5)(iii) was dismissed for want of prosecution, which was one of reasons for condoning delay in filing appeal, delay in filing appeal was to be condoned

Vide Decision of ITAT KOLKATA BENCH B

Kalyan Brata Sangha . v. Commissioner of Income Tax

Facts of the case:

1. The assessee-trust came into existence on 24-1-1956. It was granted registration under section 12A on 15-11-2000. Thus, it was an old trust.
2. After the change in the scheme of assessment of charitable institution effected by way of

Finance Act, 2020-21 with effect from 1-4-2020, the assessee had applied for grant of registration under section 12A(1)(ac)(iii) and approval under section 80G(5)(iii) afresh.

3. The Commissioner (Exemption) dismissed the applications of the assessee for want of prosecution.
4. The assessee filed instant appeal with a delay of 126 days and 123 days. The assessee filed applications for condonation of delay along with affidavit of Vice-President of the assessee-society.
5. It was deposed in the affidavit that there was some communication gap between the society vis-à-vis tax consultant and due to that, these appeals could not be filed well in time.
6. The Registry pointed out that the appeal was time barred.

Judgement:

1. Section 253(5) allows the Tribunal to accept appeals or cross-objections filed after the

prescribed period if it finds sufficient reason for the delay. This term "sufficient cause" is also used in similar contexts in Section 249(3), which pertains to the Commissioner's authority to excuse delays in appeal filings, and in Section 5 of the Indian Limitation Act, 1963. Courts have consistently interpreted this phrase liberally, as seen in various rulings.

2. In this specific case, the Trust was established in 1956 and received registration under Section 12A in 2000. Following changes in the assessment scheme for charitable institutions through the Finance Act, 2020-21, the Trust sought fresh registration under specific sections but faced dismissal due to procedural lapses. This dismissal was a key factor in justifying the delay in filing appeals.
3. Upon reviewing the orders, it was deemed appropriate to grant the Trust another opportunity. Therefore, the orders dismissing

the Trust's applications were overturned, and the Trust's applications for registration and approval were reinstated. The Commissioner (Exemption) was instructed to evaluate these applications on their merits, emphasizing substance over technicalities.

4. As a result, both of the Trust's appeals were allowed for procedural record-keeping purposes.

Indirect Tax

Act: Central Goods and Services Act, 2017

Where claim for interest on delay in refund of unutilized ITC by department was rejected, but there was no reason or material available with department for not releasing refund amount promptly, respondents-authorities were to be directed to make payment of interest on delayed refund

Vide decision of HIGH COURT OF TELANGANA ,
Qualcom India Pvt LTD. vs
Deputy Commissioner (ST) (FAC)

Facts of the case:

1. The petitioners had filed a claim seeking a refund of unutilized Input Tax Credit (ITC) with the respondents. Upon submitting the claim, the respondents issued a deficiency memo, to which the petitioners promptly responded. Subsequently, show cause notices were issued, and again, the petitioners responded accordingly. Eventually, orders were passed rejecting the refund claims.
2. Challenging the rejection of their refund claims, the petitioners filed appeals, which were largely successful, leading to the disbursement of refund amounts.
3. Following this, the petitioners submitted applications to the respondents requesting the grant of interest on the refunded amounts, which had been delayed due to withholding by

the Department. Despite repeated efforts by the petitioners, the Department did not grant interest on the delayed refunded amount. The Department's final rejection came through orders dated 09.05.2022 and 19.02.2023, which are now the subject of challenge in the present writ petitions.

Judgement:

1. In the present case, the court deliberated on the statutory provisions governing the grant of interest on delayed refunds of Input Tax Credit (ITC) under the GST Act. The court noted that Section 56 of the CGST Act, along with its proviso and explanation, does not provide any circumstances where delayed refunds would not attract interest. Furthermore, Rule 94 of the CGST Rules, 2017, specifies certain periods that do not count towards the interest payable period, thereby reinforcing the automatic entitlement to interest on delayed refunds.
2. The court emphasized that the provision for interest on delayed refunds is intended as a beneficial legislation, which should be enforced without discrimination. It held that when there is a delay in refunding the amount due to the applicant beyond the stipulated period under Section 56, interest becomes automatically payable.
3. Addressing the actions of the department, the court observed that there were no valid reasons or legal impediments justifying the delayed refund. It emphasized that the failure to grant interest in such cases would constitute a failure to discharge the statutory duty by the refund sanctioning authority.
4. The court referred to various precedents, including decisions of the Supreme Court and different High Courts, which consistently upheld the

entitlement of taxpayers to interest on delayed refunds under similar tax statutes. These decisions underscored that the liability to pay interest arises automatically upon the expiry of the stipulated period for refund.

5. Citing the Gujarat High Court's decision in *Saraf Natural Stone v. Union of India* and the Bombay High Court's decision in *Qualcomm India (P.) Ltd. v. Union of India*, among others, the court reiterated that interest accrues from the date immediately after the expiry of the prescribed period for refund, irrespective of any procedural delays or appeals.
6. In conclusion, the court held that both writ petitions deserved to be allowed. It directed the respondents to promptly initiate steps for the payment of interest on the delayed refunds of ITC released to the petitioners, in accordance with Section 56(1)

and its proviso under the CGST Act.

7. Thus, the court ruled in favor of the petitioners, affirming their entitlement to interest on delayed refunds of ITC and emphasizing the mandatory nature of such entitlement under the statutory framework.
8. No costs were awarded, and any pending miscellaneous applications were ordered to be closed accordingly.

Statutory and Tax Compliance Calendar of August 2024

GOODS & SERVICE TAX	
10-August	GSTR 8 for July
11-August	GSTR 1 for July
13-August	GSTR 5 for July (NRTP)
20-August	GSTR 3B for July
20-August	GSTR 5A for July (OIDAR)

INCOME TAX

7-August	Depositing TDS and TCS for July 2024
31-August	Form 10 (Statement of Income accumulated or set apart)

STATUTORY

10-August	Professional Tax (PT)
15-August	Provident Fund (PF), ESI Payment for July

Disclaimer

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for earlier issues

"Perfection is not attainable, but if we chase perfection, we can catch excellence" – VINCE LOMBARDI