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EDITORIAL

ROLE OF CHARTERED ACCOUNTANTS IN ECONOMIC DEVELOPMENT



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The role of chartered accountants in India goes beyond individual businesses. They contribute significantly to the nation's economic growth in several ways:

- **Startups, Expansions & Diversification:** CAs professionally enable vetting of Techno- economic viability, suggest capital structure, financial resources planning, sourcing of equity and debt.
- **Designing of Standard Processes:** Internal financial controls and internal operational controls need to be designed, implemented, and upgraded to ensure cost control, efficient and effective utilisation of funds and resources.
- **Check Fraud and Misuse of Funds:** CAs in practice and those who are working with Industry and businesses can ensure that the entity and business is safeguarded from diversion or misuse of funds and resources and are also able to prevent fraud by the internal teams, KMPs and external third parties dealing with the business entity.
- **Enhancing Accountability:** CAs ensure transparency and accountability in financial reporting, which is vital for building trust among investors, lenders, and stakeholders. The accounting policies and disclosures are made to enable decision making by Board, Key officials, investors, lenders, taxation authorities, other stake holders.

- **Corporate Governance and Compliance:** CAs guide the management to ensure that business is conducted fairly observing highest standards of quality, proper framework of delegation of powers and effective monitoring is put in place. CAs will ensure that companies adhere to legal frameworks, ethical standards, and financial reporting guidelines, fostering an environment of transparency and accountability.
- **Business Advisory Services:** Chartered Accountants go beyond traditional accounting roles, providing valuable business advisory services. Their insights and financial acumen help businesses make informed decisions, manage risks, and strategize for growth. CAs often act as trusted advisors, guiding companies through complex financial landscapes including Mergers, acquisitions, fostering business relationships with suppliers, customers, technical collaborators and investing partners.
- **Global Competitiveness:** CAs ensure that Indian businesses are financially competitive on a global scale. Their expertise helps companies navigate international markets, attracting foreign investments and contributing to India's global economic stature.
- **Facilitating Growth and Wealth Maximisation:** Chartered Accountants contribute to sustained growth of businesses and devise strategy to maximise wealth in the hands of promoters, shareholders, investors and significantly facilitate India's economic growth.

While Chartered Accountants play a crucial role in India's economy, they also face challenges in keeping up with rapidly changing financial regulations, technology, and global economic trends. However, these challenges also

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present opportunities for CAs to continually upskill and adapt to new environments, ultimately enhancing their value in the market.

The profession is actively enriching itself with rapid technological changes, automation, artificial intelligence, and data analytics. CAs have absorbed these advancements and developed new skills to stay ahead. The CA profession is expanding into specialized areas such as forensic accounting, sustainability reporting, risk management, and data analytics. CAs need to acquire new expertise and adapt to these emerging fields to meet evolving client demands.

With the increasing globalization of business, CAs face challenges related to understanding and complying with international accounting standards, cross-border transactions, and complex taxation laws. Further, Regulatory frameworks are constantly evolving, requiring CAs to stay updated on changes in laws, regulations, and reporting standards. Compliance requirements are becoming more stringent, necessitating thorough knowledge and adherence to ensure ethical practices.

As reflected in the words of Shri Jagadeep Dhankhar, Hon'ble Vice-President of India "As we collectively shape India's destiny for 2047, you (Chartered Accountants) are nerve centre, epicentre of big change, your efforts, your farsighted approach, your commitment will make Bharat the most developed nation on this planet. While institutions are vital for democratic governance and nurturing of democratic values, ICAI has been playing a stellar role in building, standardising, and sustaining the financial framework of the nation."

Our profession has always been at the forefront of promoting public interest and now is the catalyst for balanced growth. As a profession and as an institution it is our strength to support the aspirations and expectations of each stakeholder from a common man to industry and government across the financial value chain. The profession is reimagining and reinventing itself to the demands and drivers of the market and working to put in place new financial reporting frameworks and standards with impetus on technology and sustainability reporting and at the same time unlocking value creation.

We are constantly endeavouring to unlock the technology driven value creation at the same time steering the policy and practices towards protecting data privacy and protection in the interest of society. We are striving to inspire and fuel the innovational spirit of our youth to be job creator, as well as support our Industry & MSMEs become worldclass while being sustainable.

In conclusion, the field of Chartered Accountancy is an ever-evolving profession requires a commitment to integrity and a desire to make a significant impact on the financial world. As we move forward, the role of Chartered Accountants will continue to be instrumental in driving economic progress

and building a secure future for businesses and individuals alike.

Latest in Finance

RBI asks banks, NBFCs to reveal more details to retail, MSME borrowers

The Reserve Bank of India (RBI) mandated all Regulated Entities to provide the 'Key Fact Statement' to the borrowers for all retail and MSME loans detailing loan agreement information, including all-in-cost, essential information such as the all-inclusive Annual Percentage Rate and recovery and grievance redress mechanisms in simple and easy-to-understand format.

Common prepaid payment instruments for travel across the country soon

The Reserve Bank of India (RBI) has permitted authorised bank and non-bank prepaid payment instrument (PPI) issuers to issue cards for making payments across various public transport systems. The latest move is set to make travel plans for commuters more convenient and hassle-free as they will be able to travel across platforms such as bus, metro, train and even pay for the parking fee by using just one card. These instruments will be referred to as **PPI-MTS (prepaid payment instruments-mass transit systems)**. Accordingly, RBI has updated its master directions.

RBI to tighten deposit norms for Housing Finance Companies (HFCs)

The Reserve Bank of India plans to tighten deposit mobilisation rules for housing finance companies like PNB Housing Finance and LIC Housing Finance to align them with other non-banking finance companies. HFCs without investment grade credit ratings will be barred from raising public deposits. **The ceiling on public deposits for compliant HFCs will be reduced to 1.5 times net owned funds.** The banking regulator has decided to reduce the maturity period for public deposits to five years and enhance the requirement of maintaining liquid assets against liabilities. Deposits taking HFCs will get time till Mar.2025 to meet the enhanced liquid asset norms.

Appointment/re-appointment of Director, Managing

Director or Chief Executive Officer in Asset Reconstruction Companies

The Reserve Bank of India (RBI) has issued guidelines regarding the appointment and re-appointment of Directors, Managing Directors, or Chief Executive Officers in Asset Reconstruction Companies (ARCs). ARCs are required to obtain prior approval of the Reserve Bank for appointment/re-appointment of any Director, Managing Director or Chief Executive Officer. In order to have uniformity in the information submitted by ARCs for obtaining such approvals, a form for furnishing the requisite information about the candidate and an indicative list of documents required to be submitted along with the application are prescribed. ARCs are advised to submit applications in prescribed form along with documents at least ninety days before the vacancy arises / the proposed date of appointment or re-appointment.

RBI proposes norms for disclosure of climate-related financial risks for lender

The Reserve Bank of India (RBI) has put forth proposed norms for the disclosure of climate-related financial risks by lenders.

RBI Advisory: Do This Before March 15, If You Have @Paytm UPI Handle

A new advisory has been issued by Reserve Bank of India (RBI) urging all the customers of Paytm Payments Bank who use UPI services to switch to other banks by March 15, 2024. Additionally, the customers who use Paytm Payments Banks' FASTag and National Common Mobility Cards (NCMC), have also been advised to make alternate arrangements before March 15, 2024.

Paytm Announces Nodal Account Transition to Axis Bank in Strategic Financial Move

Paytm has transferred its nodal account to Axis Bank. Nodal accounts are crucial for handling customer funds securely and complying with regulatory requirements. By partnering with Axis Bank, Paytm aims to enhance its banking infrastructure and streamline its financial processes. This transition reflects Paytm's commitment to improving its services and ensuring robust financial management for its users.

Amazon Pay receives RBI's nod as payment aggregator

Amazon Pay, a leading digital payments platform under Amazon India, has received authorisation from the Reserve Bank of India (RBI) to operate as a Payment Aggregator (PA). This accreditation allows Amazon Pay to join a prestigious group of companies, including Zomato, Google Pay, Zoho, and others, authorised to offer online merchant payment services to customers.

RBI raises ceiling on remuneration of non-executive directors to Rs 30 lakh effective from Feb.09,2024

The Reserve Bank raised the ceiling on remuneration of non-executive directors in private banks to Rs 30 lakh per annum from Rs 20 lakhs. The instructions on review of fixed remuneration granted to non-executive directors would be applicable to all the private sector banks including small finance banks (SFBs) and payment banks (PBs) as also the wholly owned subsidiaries of foreign banks. RBI revised the ceiling in recognition of the vital role of non-executive operations of bank boards and their various committees.

Capital Market

Guidelines for returning of draft offer document and its resubmission

SEBI came out with guidelines for returning the draft offer document for public issues and its resubmission in a bid to provide greater clarity and consistency in the disclosures as well as for timely processing. In a circular, SEBI said the draft offer document will be scrutinized based on the broad guidelines specified by it and accordingly, such document will be returned to the issuer for resubmission. As per the guidelines, the draft offer document is required to be prepared in simple language with visual representation of data to ensure ease of understanding of its contents and the information needs to be presented in a clear, concise, and intelligible manner.

Revised Pricing Methodology for Institutional Placements of Privately Placed Infrastructure Investment Trust (InvIT)

Securities and Exchange Board of India has released a circular revising the Pricing Methodology for Institutional Placements of Privately Placed Infrastructure Investment Trust (InvIT) in a bid to promote ease of doing business. It intends to streamline and simplify the entire process of pricing by shifting the stock exchange-based pricing system to Net Asset Value (NAV). Under the new guidelines, privately placed InvITs can undertake

institutional placement based on net asset value (NAV) of InvIT's assets. Further, any subsequent issue of units after initial public offer may be by way of institutional placement, in addition to other mechanisms provided in the regulations.

SEBI mulls mandatory registration of PMS distributors with industry body APMI

SEBI proposed promoting collective oversight of PMS (Portfolio Manager Services) distributors by making registration with the Association of Portfolio Managers in India (APMI) mandatory for them and facilitating ease of digital on boarding process for portfolio managers' clients.

SEBI directs intermediaries to centralize FATCA and CRS certifications at KYC Registration Agencies

To promote ease of doing business and compliance reporting, SEBI suggests measures for the centralization of certifications under the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) at KYC Registration Agencies. As per the new norms, SEBI has directed the intermediaries, who are reporting to financial institutions (RFI), to upload the FATCA and CRS certifications obtained from the clients onto the system of KRAs with effect from July 01, 2024. The existing certifications obtained from clients prior to July 01, 2024 shall be uploaded by the intermediaries onto the systems of KRAs within a period of 90 days of implementation of this circular.

SEBI issues advisory against Fraudulent Trading Schemes claiming to be offered to Indian residents by FPIs

SEBI urges investors to exercise caution and to steer clear of any social media messages, WhatsApp groups, Telegram channels, or apps claiming to facilitate stock market access through Foreign Portfolio Investors (FPIs) or Foreign Institutional Investor (FIIs) registered with SEBI. Such schemes are fraudulent and do not have SEBI's endorsement.

IFSCA

Consolidated Fee structure for the entities undertaking or intending to undertake permissible activities in IFSC

International Financial Services Centres Authority issued circular laying down a consolidated fee structure for an entity desirous of getting and have been granted licence, registration, recognition or authorisation or availing of any permitted financial service in the IFSC under relevant regulations, circulars, guidelines or framework. The fees payable to the Authority fall into the categories of Application fees and Licence / Registration / Recognition / Authorisation fees, Recurring fees, activity-based fee and processing fees payable based on requisite service.

Reporting Norms for Capital Market Intermediaries (CMIs)

The International Financial Services Centres Authority (IFSCA) has issued circular addressing the reporting norms for Capital Market Intermediaries (CMIs) operating within the International Financial Services Centre (IFSC). Under New Reporting framework, CMIs are mandated to submit quarterly reports to the Authority in specific formats accessible through the IFSCA's official website. The circular specifies the initial reporting period as October 01, 2023, to December 31, 2023, with a submission deadline set for February 28, 2024. Subsequent reports are due within 15 calendar days following the end of each quarter, marking a standardized timeline for all CMIs to follow. Importantly, submissions are to be made via email to a dedicated address, streamlining the process and providing a direct line of communication between the CMIs and the Authority.

Net Worth Maintenance for Fund Management Entities (FMEs)

This Circular addresses the obligation of FMEs to maintain specified net worth levels at all times, as stipulated in IFSCA (Fund Management) Regulations, 2022. Under the regulation, if the net worth of any FME falls below the specified threshold, the entity is restricted from launching new schemes, onboarding new clients, or undertaking new business activities permitted under the Fund Management Regulations until the net worth is restored to the required level. This measure aims to ensure financial stability and integrity within IFSCs, safeguarding investors' interests and maintaining the reputation of IFSCs as robust financial centres.

RBI allows Indian bank branches in GIFT-IFSC to trade on international bullion exchange

The Reserve Bank of India (RBI) issued a circular allowing the branches of Indian banks in GIFT-IFSC to act as a Trading Member or Trading and Clearing Member of International Bullion Exchange IFSC Ltd (IIBX). Indian banks are authorised to import gold or silver will act as Special Category Client (SCC) of the International Bullion Exchange. However, the SCC shall execute only buy trades on behalf of clients (without proprietary trading). The SCCs will appoint one of the IFSC Banking Units (IBUs) to act as clearing member on their behalf. All client trades placed on the exchange shall be against 110 per cent advance pay-in of funds (buy order) of the expected value of bullion (quantity & quality specification) intended to be purchased and securities (sell order) in the account of the bank, as is applicable.

Extension of time frame in respect of minimum net worth and base capital for Bullion Trading Members and Clearing Members in GIFT-IFSC

IFSCA has extended the time frame specified in previous circulars regarding minimum net worth and base minimum capital for bullion intermediaries. The initial 6-month period was extended twice, and now it's extended for another 6 months until July 28, 2024, or until IFSCA issues revised guidelines. This extension is made under the authority of Section 12 of the International Financial Services Centres Authority Act, 2019, to regulate financial products and institutions in International Financial Services Centres.

International Financial Services Centres Authority (IFSCA) Constitution of a Standing Committee on Primary Markets

IFSCA has constituted a "Standing Committee on Primary Markets" for seeking suggestions and recommendations from the market experts on the various policy and regulatory matters to facilitate the development of a vibrant and robust ecosystem for primary markets in GIFT IFSC under the Chairmanship of Shri T. V. Mohandas Pai, Chairman of Aarin Capital Partners. The constitution of the committee and its terms of reference can be accessed on IFSCA website.

SEBI impounds Rs. 7.41 crores of wrongful gains from Zee Business Guest Experts giving stock recommendations and "Profit makers"

SEBI in an interim order on Feb.08, asked 15 experts appearing on the Zee Business news channel to cough up Rs 7.41 crore "unlawful gain" that they made by taking opposite positions in the market than they advised on air between February 01, 2022 and December 31, 2022. SEBI has identified three categories of experts: profit makers (who gained from alleged insider information); enablers (aiding profit makers); and guest experts (providing non-public information). Some of them have also been

barred from trading in the market until further orders. **Editorial:** SEBI need to prohibit stock buy or sell recommendations on any public media including TV channels, social media, Print media or electronic media. This is open to misuse and manipulation. The registered market intermediaries should also be prohibited to make telephone calls (using callers or auto calling devices) to unregistered subscribers and non-clients being misused openly.

Export Import

DGFT notifies the Indian Trade Classification (Harmonised System) of Export Items, 2023

The DGFT notified the 'Indian Trade Classification (Harmonised System) of Export Items, 2023' for Chapter 01-39 of Schedule 2 in accordance with the Foreign Trade (Development & Regulation) Act, 1992, and the Foreign Trade Policy, 2023. The export policy and conditions for items under Chapter 01-39 are specified and available on the DGFT website. The notification is effective immediately.

DGFT provides relief in Average Export Obligation as per para 5.17(a) of the Handbook of Procedures (HBP) of FTP 2023

The circular states that exporters from sectors experiencing a decline of over 5% in total exports for the year 2022-23 compared to the previous year will receive proportional reductions in their Average Export Obligation (EO) for the year.

Income Tax

Pending tax demand of up to Rs 1 lakh per individual waived by Govt

The Income Tax department has commenced implementing the Centre's budget announcement of remitting small outstanding tax demands as of January 31, 2024 under the I-T Act and erstwhile Wealth and Gift Tax Acts. Individual dues up to Rs 25,000 before FY11 and Rs 10,000 between FY11-15 now stand withdrawn. The Income Tax department has prescribed a ceiling of Rs 1 lakh per assessee for withdrawal of small tax demands till Assessment Year 2015-16.

The limit of Rs 1 lakh would include principal component of tax demand, interest, penalty or fee, cess, surcharge. However, the remission shall not be applicable on the demands raised against the tax deductors or tax collectors under TDS or TCS provisions of the I-T Act.

Implementation of e-Verification Scheme-2021

The Income Tax Department has identified certain mismatches between the information received from third parties on interest and dividend income, and the Income Tax Return (ITR) filed by taxpayers. In order to reconcile the mismatch, an on-screen functionality has been made available in the Compliance portal of the e-filing website <https://eportal.incometax.gov.in> for taxpayers to provide their response. At present, the information mismatches relating to Financial Years 2021-22 and 2022-23 have been displayed on the Compliance portal. The taxpayers are also being made aware of the mismatch through SMS and emails as per details available with the Department. **Editorial:** The income tax department need to consider permitting amendment of income tax returns by the assessee voluntarily to correct the mismatch or even otherwise finding any error for a period up to 3 succeeding assessment years so that even mistake found by assessee or their auditors later can be voluntarily corrected. Once such correction is made, the tax department will have additional 6 month time from the date of such amendment.

ITAT: Microfinancing with exorbitant interest rate & profit intent, not charitable activity; Rejects Sec.11 exemption

Bangalore ITAT holds that the microfinance activity carried on by the Assessee cannot be considered as 'charitable activity' under Section 2(15) since the Assessee generated profits by charging exorbitant rate of interest i.e. 18% to 20% from its borrowers; Rejects Assessee's claim for exemption under Section 11 and also holds that the Assessee is also not protected under Section 11(4A) as the microfinance activity is the main business of the Assessee and not the business incidental to the attainment of the main object. [Sanghamitra Rural Financial Services, TS-72-ITAT-2024(Bang)]

ITAT: Foreign trust's settlor neither investor nor beneficial owner; Deletes BMA addition

The Chennai Income Tax Appellate Tribunal (ITAT) has deleted an addition of Rs.26.09 Cr. made under Section 10(3) of the Black Money Act (BMA) concerning an undisclosed investment in a foreign trust. The ITAT ruled that the Assessee, identified as the settlor in the trust, neither contributed funds nor received any benefit from the trusts. It highlighted a contradiction in the Revenue's stand compared to the Enforcement Directorate's (ED) notice, which stated that the property purchased in the name of the Windsor Trust was funded by borrowed money from a bank, and the Assessee made no investment in the trust. Additionally, the ITAT noted that since the Assessee had no investment or income from foreign assets, the question of disclosure in the return did not arise. [393 (Chennai - Trib.), Narayanaswamy Ramamoorthy v. Deputy Director of Income -tax (Investigation), Unit-3(3)]

HC: Rules on 'pre-approval period' weighted deduction for R&D facility under Sec.35(2AB)

The Delhi High Court has allowed a writ petition challenging the restriction on weighted deduction under Section 35(2AB) for expenditures incurred before the approval of an in-house R&D facility by the DSIR (Department of Scientific and Industrial Research). The court observed that the provision does not specify that only expenditures incurred post the approval of the facility qualify for deductions. While acknowledging that approval is a precondition for considering a claim under Section 35(2AB), the court emphasized that eligible expenditures for creating the facility are not restricted to a date before approval. The court highlighted that Section 35(2AB) aims to grant deductions for already incurred expenditures, even before the facility's approval, as indicated by the term "expenditure so incurred." [Nagravision India Private Limited Vs. Secretary of Scientific & Industrial Research; W.P.(C) 5666/2020]

ITAT: Stamp value on sale-agreement date relevant for Sec.56(2)(vii)(b) valuation

The Delhi Income Tax Appellate Tribunal (ITAT) has ruled that the stamp value on the date of the sale agreement is relevant for the valuation under Section 56(2)(vii)(b). It cited the first proviso to this section, stating that if the date of the agreement and registration differ, the stamp duty value on the agreement date should be considered. [Shyamkumar Madhavdas Chugh Vs ACIT; ITA No.1673/ Del/ 2023]

ITAT: Rules on scope of revisionary powers of jurisdictional PCIT vis-a-vis faceless assessment

The Mumbai Income Tax Appellate Tribunal (ITAT) has upheld the revisionary powers of the Principal Commissioner of Income Tax (PCIT) against an assessment order conducted by the National Faceless Assessment Centre (NaFAC) under the faceless

assessment scheme. The ITAT states that after the faceless assessment is complete, the jurisdictional PCIT can use Section 263 powers over the order. It notes that the PCIT's role in the faceless assessment system is administrative until completion, and no approval from PCIT is needed for the assessment order. The ITAT concludes that Section 144B defines NaFAC's role without diminishing the assessing officer's jurisdiction over a specific assessee or procedures beyond Section 144B. [RDC Ventures Vs PCIT, ITA No. 1915/Mum/2023]

Charitable Society's Eligibility for Sections 11 and 12 Benefits Despite TDS Deduction

Where assessee, charitable society, received grants from donors and TDS was deducted on said grants under sections 194C and 194J, said deduction of TDS would not be determinative factor for denial of benefits to assessee under sections 11 and 12, and receipts could not be treated as income of assessee unless specifically hit by proviso of section 2(15). [Aroh Foundation v. Commissioner of Income-tax, W.P.(C) NO. 4365 OF 2021]

Attribution of Income to Beneficial Shareholder in Inter-Company Loan Transaction

Where assessee received loan from a company and said company and assessee had common shareholder who was in a position to control affairs of both lender company and receiver concern, deeming provisions of section 2(22)(e) would be attracted in hands of common shareholder and not assessee-concern. [Kolkata - Trib., Apeejay Surrendra Management Services (P.) Ltd. v. Deputy Commissioner of Income-tax, Circle-8(1), IT APPEAL NOS. 987 & 988 (KOL.) OF 2023]

Assessment Reopening against Dissolved Company - Supreme Court Ruling

The Court emphasized that once a company is dissolved, it ceases to exist in the eyes of the law. The notice issued under Section 148 of the Income Tax Act was deemed invalid, leading to the quashing of the subsequent assessment order. The ruling reinforces the principle that a dissolved company cannot be treated as a legal entity against which assessment proceedings can be initiated under the Income Tax Act. [Jitendra Chandralal Navlani & Anr. Versus Union Of India & Ors, Writ Petition No. 1069 Of 2016]

Quashing Addition of Unverified Sundry Creditors: ITAT Ruling

The ITAT noted that the lack of response to notice under Section 133(6) alone cannot justify the rejection of sundry creditors, especially when the assessee provided evidence such as purchase bills, VAT registration, and confirmations from parties. The ITAT also highlighted that the Revenue had accepted the purchases and sales during the assessment year in question. As there was no precedent of rejecting sundry creditors or purchases by the Assessing Officer (AO) in previous years, the ITAT concluded that the entire addition was unjustified. [Rameshwar Shaw Versus Income Tax Officer, Ward-48 (3), Kolkata, No.- I.t.a. No. 841/kol/2023.]

ITAT: Charitable objects, not income application, require examination at registration stage

The Delhi Income Tax Appellate Tribunal (ITAT) has overturned the order of the CIT(E) that rejected the Assessee's application for registration under Section 12AA. The ITAT has directed the CIT(E) to reconsider the application and grant registration if it complies with the requirements of Section 12AA for registration and is properly filled out. At the registration stage, the focus should be on whether the trust's objectives are charitable and whether the application is made correctly. The ITAT clarified that the Revenue can verify the Assessee's expenses later and can disallow them if they are not related to charitable activities or if they promote another entity's

business, with the option to cancel registration accordingly. [Movement Against Diabetes and Endocrine Disorders; TS-114-ITAT-2024(DEL)]

ITAT: Possession of transport vehicles sufficient for Sec.194C-TDS exception; Ownership not essential

The Jodhpur Income Tax Appellate Tribunal (ITAT) ruled that the Assessee is not obligated to deduct tax at source under Section 194C if declarations under Section 194C(6) and PAN are obtained from payees possessing the vehicle, regardless of whether they are registered owners. The term "owner" in Section 194C(6) encompasses anyone in possession of the goods carriage, not exclusively the registered owner. [Adhunik Khanan VA Parivahan Theka Sahakari Samiti Limited; TS-115-ITAT-2024(JODH)]

DC: Discharges accused from prosecution since not director during TDS-default year

The court in Delhi discharged a company director from prosecution for not depositing Rs. 3.15 Cr in TDS for a year. They found that the director wasn't in office during that time, and it wasn't clear who filed the TDS return. The court said just holding a position in a company doesn't mean someone is responsible for its actions. Since the Revenue couldn't prove the director's role in management and didn't provide the TDS return form, the court let the director go. [Vihan Networks Ltd; TS-133-DC-2024(DEL)]

Disallowance of Section 54F Exemption in Assessment Year 2016-17: Revisiting Previous Assessment Year's Findings

Where assessee during assessment year 2013-14 earned capital gains and claimed exemption under section 54F by depositing same in capital gain deposit account and said claim was allowed by AO, thereafter in assessment year 2015-16, after thorough scrutiny exemption under section 54F was allowed, thus, AO could not re-appreciate same facts which were considered during assessment year 2015-16 to reopen assessment and disallow exemption for assessment year 2016-17 on ground that three years from date of deposit in capital gain deposit scheme would be over on 30-01-2016 which would fall in previous year relevant to assessment year 2016-17. [Bimalkumar Karshanbhai Tank V. Income-Tax Officer, Ward 1(2)(1), R/ Special Civil Application No. 12620 Of 2021]

Assessment u/s 153A - Addition of cash deposits in bank account and savings bank account interest

The assessee consistently maintained that cash deposits originated from corresponding cash withdrawals. Analysis of the bank records revealed that withdrawals closely preceded deposits, indicating a direct correlation. The tax authorities failed to provide evidence suggesting alternative uses for the withdrawn cash. Based on established legal precedents and considering the proximity between withdrawals and deposits, it was concluded that the source of the cash deposits was adequately explained by the assessee. Consequently, the addition was removed from the assessment. [Sh. Rajesh Mangla, Rra Taxindia Versus Dy. Commissioner Of Income Tax, ITA Nos. 2811, 2813 & 2814/Del/2018, ITA Nos.2994, 2996 & 2997/Del/2018]

TDS u/s 194H - commission payable to an agent by the assessee under the franchise/ distributorship agreement between the assessee and the franchisees/distributors

The case discusses the legal distinction between distributors/franchisees and agents in commercial relationships. Distributors operate independently, buying and selling goods within their territory, while agents facilitate relationships between principals and third parties. Franchise agreements involve detailed regulations, with franchisees acting as independent contractors appointed by franchisors. Independent contractors are not subject to the same control as agents and primarily follow

the terms of their contracts. The court rules that income/profit received by distributors/franchisees does not necessitate tax deductions under Section 194-H of the Act. [Supreme Court, Bharti Airtel Limited Vs ACIT, Circle 57, Kolkata And Another, - Civil Appeal No. 7257 Of 2011]

GST

Verify the genuineness of any communication or the summons even having DIN through window on the CBIC Website or the DIN Utility Search on the online portal

CBIC has recently noticed that some individuals with fraudulent intent are creating and sending fake summons to the taxpayers who may or may not be under investigation by the DGGI. The fake summons that are being sent out might look real because they have a Document Identification Number (DIN), but these DIN numbers are not issued by DGGI. For the awareness of the taxpayers, it is reminded that taxpayers can verify the genuineness of any communication (including Summons) from the Department by using the 'VERIFY CBIC-DIN' window on the CBIC's website or the DIN Utility Search on the online portal of Directorate of Data Management (DDM), CBIC. Individual taxpayers who get summons from DGGI/CBIC formations that seem suspicious or possibly fake may immediately report them to concerned jurisdictional DGGI/ CBIC office also for verification, so that necessary action against those responsible for these fraudulent activities can be taken.

Govt permits GSTN to share data with RBI's frictionless credit

The government has permitted GST Network to share data about GST-registered businesses, based on their consent, with the Reserve Bank's 'Public Tech Platform for Frictionless Credit'. With appropriate consent from the supplier/recipient, GSTN is empowered to disclose specific details submitted in the GST registration application, along with data from outward tax returns, monthly and annual tax returns, and invoice preparations. The move will help entities get loans faster on the basis of shared Goods and Services Tax (GST)-related information.

GST Case Laws

Order of detention and penalty to set aside as Assessee not responsible for his supplier discrepancies

Where show cause notice mentions supplier of assessee had discrepancies in documents and was accused of involvement in circulating fictitious/bogus Input Tax Credit (ITC) to other parties, since assessee being no way connected with any allegations that had been levelled against supplier company, could not be made liable to pay penalty, therefore order of detention of goods and order imposing penalty was to be set aside. [Fairdeal Metals Ltd.v. Assistant Commissioner of Revenue, State Tax, Bureau of Investigation (NB), W.P.A.NO. 170 OF 2024]

GST: Quashing of Penalty Order: Unjustified Presumption of Tax Evasion Due to Short E-Way Bill Completion

Where goods and details in invoice matched and only shortfall was non-completion of Part B of e-way bill, which was subsequently rectified, presumption of tax evasion solely because of short distance between origin and destination of goods was deemed unjustified, leading to quashing of penalty order. [517 (Allahabad), HIGH Nokia Solutions & Networks India (P.) Ltd.v. State Of U.P., WRIT TAX NO. 1034 OF 2019]

Quashing of Detention Order: Imposition of Harsh Penalty Due to Technical Error in E-Way Bills

Where goods were accompanied with relevant invoices, bilty documents and only four out of eight of E-way bills had incorrect address, even said incorrect address was registered office of assessee, therefore, there was no intention to evade tax, mere technical error committed by assessee could not result in imposition of harsh penalty upon assessee, hence, detention order was to be quashed and set aside [404 (Allahabad) Hawkins Cookers Ltd. v. State of U.P. WRIT TAX NO. 739 OF 2020]

High Court Quashes Rejection of ITC Claims, Emphasizes Examination of All Relevant Returns

In the case concerning Input Tax Credit (ITC) eligibility for assessment years 2017-2018 to 2019-2020, the petitioner, engaged in the trade of electrical products and hardware, claimed ITC, duly reflected in GSTR 2A and GSTR-9 returns. However, the claims were rejected solely based on non-declaration in GSTR-3B returns, disregarding other relevant filings. The court held that the assessing officer must consider all pertinent documents, including GSTR-2A and GSTR-9, when determining the validity of ITC claims. Consequently, the order rejecting the claims was quashed, and the matter was remanded for further examination. [Sri Shanmuga Hardwares Electricals v. State Tax Officer WRIT PETITION NOS.3804, 3808 & 3813 OF 2024, W.M.P. NOS. 4105, 4107 OF 2024 AND OTHS]

Other Important Laws

Relaxation of additional fees and extension of last date of filing of Forms under the Limited Liability Partnership Act, 2008

In view of transition of MCA 21 from version-2 to version-3 and to promote compliance on part of reporting LLPs, it is informed that such LLPs may file return form LLP BEN-2 and LLP Form No. 4D to the Registrar in respect of declaration of beneficial interest in contribution received by the LLP, without payment of any additional fees, up to 15.05.2024. The two forms shall be made available in version-3 for filing purposes w.e.f. 15.04.2024.

Parliament clears Water Prevention and Control of Pollution Amendment Bill

With an aim to rationalize minor offenses related to water pollution, the Parliament cleared the Water (Prevention and Control of Pollution) Amendment Bill, 2024 on Feb.08. The Bill seeks to amend the Water (Prevention and Control of Pollution) Act, 1974. The Bill decriminalises several violations and imposes penalties. It will initially apply to Himachal Pradesh, Rajasthan, and the Union Territories.

Companies (Registration Offices and Fees) Amendment Rules, 2024

A new rule, 10A, is added to the Companies (Registration Offices and Fees) Rules, 2014, establishing a Central Processing Center. This Center, under section 396 of the Companies Act, 2013, is tasked with examining all applications, e-Forms, or documents for approval or registration by the Registrar. The Registrar at the Central Processing Center must make decisions within 30 days of filing, excluding cases requiring approval from higher authorities.

IBBI : Sharing of the Report prepared by the Resolution Professional to both debtor and creditor

The resolution professional (RP) in an insolvency resolution process of a debtor examines the application filed under section 94 or 95 of the Insolvency and Bankruptcy Code, 2016 (Code) and submits a report to the Adjudicating Authority under sub-

section (1) of section 99 of the Code, recommending for approval or rejection of the application. Sub-section (10) of section 99 mandates the RP to share a copy of this report to the debtor or the creditor, as the case may be. It has been observed that in certain cases, the RPs have not shared a copy of the report with both debtor and creditor, leading to a lack of equal information access among them. Therefore, it is hereby advised that the RP shall provide a copy of the report to both debtor and creditor in all cases. This will ensure that the debtor and the creditor are well-informed about the evaluation and recommendations made by the RP, thereby promoting transparency and informed decision-making.

Allotted houses to stay out of liquidation: IBBI

The Insolvency and Bankruptcy Board of India ('IBBI') notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2024 to amend the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The provisions came into force on Feb.12,2024.

Key amendments to India's Insolvency and Bankruptcy Board regulations aim to enhance the liquidation process. Home buyers with allotted and possessed housing units installed projects can now rejoice as their homes are now protected from being included in the "liquidation estate" of such projects. Liquidators are prohibited from selling these already allotted and possessed housing units as part of the liquidation process, as per the latest amendments to liquidation process regulations. Notable changes include the liquidator's authority to reduce reserve prices, private sale consultation requirements, and mandatory Stakeholders' Consultation Committee (SCC) meetings for timely decisions. Comprehensive reporting, valuations, SCC consultation for legal proceedings, and considerations for running the debtor as a going concern are emphasized. The amendments also address early dissolution, modified compliance certificates, and restrictions on filing compromise proposals after a specified period. Additionally, the liquidator can extend payment periods and exclude assets given to allottees in real estate projects from the liquidation estate.

3 new criminal laws to come into force from July 1

The Central Government appoints the 1st day of July, 2024, as the date on which the provisions of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Sanhita, except the provisions of the entry relating to section 106(2) in the First Schedule, shall come into force. In January, transporters' associations across the country staged protests against certain provisions under section 106(2) of the new code, as per which any driver who causes the death of a person by rash and negligent driving and flees from the spot will be jailed for up to 10 years and/or fined. The Centre had assured all transporters that a decision on enforcing the stringent provisions in such cases under Bharatiya Nyaya Sanhita will be taken only after consultation with the All India Motor Transport Congress (AIMTC).



TRUTH

सत्य के लिए हम प्रतिबद्ध हैं

MSME not entitled to the benefits under the MSME Act if registered during the subsistence of the contract

A party who was not the "supplier" as per Section 2(n) of the Msmed Act, 2006 on the date of entering into the contract, could not seek any benefit as a supplier under the Msmed Act, 2006. A party cannot become a micro or small enterprise or a supplier to claim the benefit under the Msmed Act, 2006 by submitting a memorandum to obtain registration subsequent to entering into the contract and supply of goods or rendering services. [Mahanagar Telephone Nigam Ltd Vs. Delhi International Arbitration Centre, Through Its CoOrdinator & Ors ; High Court of Delhi W.P.(C) 14515/2023 & CM APPL. 57558/2023]

SC strikes down electoral bond scheme as 'unconstitutional', against rights

The Supreme Court struck down the electoral bonds scheme, calling it "unconstitutional" and "arbitrary". It ordered State Bank of India (SBI), the issuing bank, to immediately cease issuing electoral bonds, share the names of the purchasers, value of the bonds and their recipients with the Election Commission, and asked the latter to disclose those details by March 13.

The court held that the scheme infringes on citizens' right to information about potential quid pro quo arrangements, and ruled that an amendment to Section 182 of the Companies Act, which permitted Indian companies to donate any amount to a political party, was unconstitutional. [Association for Democratic Reforms v. Union of India WRIT PETITION (C) NOS. 880 OF 2017 & OTHS]

Rectification of Non-Compliance under Section 92(4) of Companies Act, 2013

The company failed to file its Annual Return for the FY 2019-20 under section 92(4) of Companies Act, 2013. An adjudication notice was issued to the company. The company responded by admitting to the failure to file the necessary forms but stated that they had conducted the Annual General Meeting within the prescribed timeline. They rectified the default by filing the necessary forms with the Registrar of Companies. As per Sec.454(3) of the Companies Act, 2013, if the default related to non-compliance of Section 92 is rectified either prior to, or within thirty days of the issue of the notice by the adjudicating officer, no penalty shall be imposed, and all proceedings shall be deemed concluded. The Registrar of Companies found that the company and its officers indeed defaulted under Section 92(4) but rectified the offense within the stipulated time frame. Considering the facts, the Registrar of Companies decided not to impose a penalty for the non-compliance. [Gagan Narang Sports Promotion Foundation, Registrar of Companies Maharashtra, Pune]



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Supreme Court Upholds Validity of Arbitration Petition Despite Time Constraints

An arbitration petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 filed praying for the appointment of an arbitrator for the adjudication of disputes and claims arising from the Contract dated 21-03-2013 entered between the petitioner and the respondent.

Held that the present arbitration petition having been filed within a period of three years from the date when the respondent failed to comply with the notice of invocation of arbitration issued by the petitioner is not hit by limitation. Further, the notice for invocation of arbitration having been issued by the petitioner within a period of three years from the date of accrual of cause of action, the claims cannot be said to be ex-facie dead or time-barred on the date of commencement of the arbitration proceedings. [M/S Arif Azim Co. Ltd. vs M/S Aptech Ltd., Arbitration Petition No. 29 of 2023 (The Supreme Court of India)]

Audit & Accountancy

NFRA's first annual inspection of key audit firms to start by April

The National Financial Reporting Authority (NFRA) will provoke the first annual inspection of key audit firms-including the Big Five-latest by April, focussed on their processes and requirements adopted. It will choose other auditors as effectively for the inspections, based mostly on sure "risk-based parameters" that it is finalising by utilizing information analytics. Moreover, the regulator will lay emphasis on whether the auditors have effective communications with the audit committees of listed firms, mainly the large ones.

NFRA debars auditor for lapses in books of Maharashtra-based Bilcare

The National Financial Reporting Authority (NFRA) has debarred auditor Ratan Laxminarayan Rathi of RL Rathi & Co for two years and imposed a penalty of Rs 3 lakh for professional misconduct in the Statutory Audit of Bilcare Ltd. for the FY 14-15 to 16-17. SEBI informed NFRA that the financial statements (FS) of Bilcare did not recognise the full interest cost on its borrowings from banks which were classified as non-performing assets (NPA) by those banks.

According to NFRA, the financial statements of Bilcare were materially misstated due to interest cost recognition, resulting in under-statement of losses. In addition, proper audit of related party transactions (RPTs) of Bilcare not conducted and false companies (auditor's report) order (CARO) report issued.



EXCELLENCE
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