

DIRECT TAX

News

Startups may soon get shield against angel tax demons

India is likely to soon announce concessions to shield startups from the so-called 'angel tax', including relief from levies on past investments as well. The changes will be made to conditions specified for benefits under Section 56(2)(vii)(b) of the Income Tax Act, 1961, to remove any ambiguity and allow exemption for past as well as proposed investments that do not exceed Rs 10 crore, including paid-up share capital and premiums. [Source: ET]

Non-filers will have 21 days to file I-T returns, submit response: CBDT

Individuals who have carried out high value transactions but have not filed their income tax returns for the assessment year 2018-19 would get 21 days time to submit their responses. The 21-day time period would be from the date of receiving e-mail or SMS from the I-T Department regarding non-filing of tax returns. In cases where no return is filed or no response is received for Assessment Year (AY) 2018-19 within the stipulated time, the department would consider initiating proceedings under the Income Tax Act 1961. [Source: money control]

Angel Tax: A third of start-ups got tax notices in 2018

Over 38% of the start-ups in the country — 39,000 at last count — have received one or more 'angel tax' notices in 2018, causing critical capital infusion in these firms at the seed stage to go down by 21% year-on-year. The Start-up India movement is under serious threat and will slide further if immediate structural policy measures are not taken to halt the tax notices. [Source: financial express]

Notification No. 01 /2019 dt. 24/01/2019

M/s Jubilee Mission Hospital Trust, Thrissur, Kerala under the aegis of 'Jubilee Mission Hospital Trust' has been approved by the Central Government for the purpose of section 35(1)(ii) of the Income Tax Act from AY 2019-20 in the category of 'University ,College or other Institution' engage in Scientific Research Activities.

Notification No. 4/2019 dt 30/01/2019

The central Board of Direct Taxes Amend the Rule 12D of Income Tax Act, 1961 and substituted the "Prescribed income-tax authority under section 133C with The prescribed income-tax authority

under section 133C shall be an income-tax authority not below the rank of Assistant Commissioner of Income-tax who has been authorised by the Central Board of Direct Taxes to act as such authority for the purposes of that section."

Notification No.8/2019 dt 31/01/2019

The Central Government notifies M/s BSE Limited, Mumbai as a recognized association with effect from 1.10.2018 under section 43(5)(e)(iii) of Income Tax Act,1961 read with rules 6DDD(4) of Income Tax Rules ,1962.

Case Laws

Deepak Fertilizers and Petrochemicals Corporation Limited vs. ACIT (Bombay High Court)

Stay of prosecution proceedings

If the Appeal is admitted on substantial questions of law, there is no justification for the DCIT to threaten the assessee with prosecution. Even if such prosecution is launched, the same shall not proceed till the pendency of the Appeal.

DCIT vs. Kargwal Products P. Ltd (ITAT Mumbai)

AO cannot reopen the assessment in the absence of material grounds.

Even in Section 143(1) intimation, the AO is not entitled to reopen on the ground that the assessee has received "huge share premium" which was not "examined" by the AO. The AO cannot reopen in the absence of tangible material that shows income has escaped assessment.

PCIT vs. VembuVaidyanathan (Bombay High Court)

Date of allotment will be the date on which property is acquired

The allottee gets title to property on issue of allotment letter. The payment of instalments is only a follow-up action. Taking delivery of possession is only a formality. Accordingly, the date of allotment is the date on which the purchaser of a residential unit can be stated to have acquired the property (CBDT Circulars applied).

Akshar Builders and Developers vs. ACIT (Bombay High Court)

Even in a case where return is accepted without scrutiny, the AO cannot proceed mechanically and on erroneous information supplied to him by investigation wing. If AO acts merely upon information submitted by investigation wing and on total lack of application of mind, the reopening is invalid.

Ankita A. Choksey vs. ITO (Bombay High Court)

The mere fact that the return is processed u/s 143(1) does not give the AO a carte blanche to issue a reopening notice. The basic condition precedent of 'reason to believe' applies even to section 143(1) intimations. If the assessee claims the facts recorded in the reasons are not correct, the order on objection must deal with them. Otherwise an adverse inference can be drawn against the Revenue.

Sony Pictures Networks India Pvt Ltd vs. ITAT (Bombay High Court)

The law in CIT vs. Ramesh Electrical Co 203 ITR 497 (Bom) that failure to deal with an argument does not constitute a 'mistake apparent from the record' does not apply to a case where a fundamental submission is omitted to be considered by the ITAT. The omission is apparent from the record and should be rectified by the ITAT.

PCIT vs. Perfect Circle India Pvt. Ltd (Bombay High Court)

The second proviso to section 40(a)(ia) is beneficial to the assessee and is declaratory and curative in nature. Accordingly, it must be given retrospective effect.

Bharathi Cement Corporation Pvt Ltd vs. ACIT (ITAT Hyderabad)

The fact that the premium is abnormally high as per test of human probabilities is not sufficient. The AO has to lift the corporate veil & determine whether any benefit is passed on to the shareholders/directors. Directions issued to AO to establish whether Assessee Company was used as a vehicle to pass on the benefit to shareholders/directors.

RamprakashBiswanathShroff vs. CIT (TDS) (Bombay High Court)

Default by employers in not issuing Form 16 TDS certificates to employees prima facie makes employers liable to prosecution u/s 405 of the Indian Penal Code (IPC). Dept should provide information of such defaulters so that those seeking employment etc would know in advance as to how the employers are complying with law.

CIT vs. Viksit Engineering Ltd (Bombay High Court) ITA

Merely holding shares for a short period will not convert capital gain into business income. This would be contrary to be legislative mandate which itself provides that investment held for less than 12 months is to be termed as short term capital gain. If the assessee has two portfolios, one for "Investment" and other for "Trading" and if the investments are out of own funds and not borrowed funds, the gains have to be assessed as STCG.

GOODS AND SERVICE TAX (GST)

GST relief to MSMEs: Council raises exemption threshold

The NarendraModi government is showering goodies on the micro, small and medium enterprises (MSMEs) and small traders that have suffered under the note ban and a hastily implemented GST. Over 20 lakh GST-registrant businesses dealing in goods have now got the option to move out of the tax's ambit as the GST Council raised the aggregate turnover threshold for exemption to Rs 40 lakh from the present Rs. 20 lakh. [Source: financial express]

Kerala to levy calamity cess up to 1% over and above GST

Kerala will be the first State to impose calamity cess after the introduction of Goods and Services Tax (GST). This will mean buying various goods will become costlier and services such as staying in a hotel will get expensive.

Goods and Services Tax

GST NEWS

1% "calamity cess" for Kerala, Approves by GST panel

The GST Council has approved levy of cess on intra-State

supply of goods and services within the State of Kerala at a rate not exceeding one per cent for a period not exceeding 2 years.

[Source: hindubusinessline]

Cabinet Clears Setting up of National Bench of GST Appellate Tribunal

The Union Cabinet approved setting up of the national bench of the GST Appellate Tribunal which will act as forum for second appeal in case of dispute and also decide cases where there are divergent orders at the state level. The national bench of the Goods and Services Tax Appellate Tribunal to be located in the capital would have one member each from Centre and states and a President. [Source: news18]

Gem, jewellery exporters exempted from 3% IGST

The Union government has accepted the Gem and Jewellery Export Promotion Council's (GJEPC's) demand to grant IGST-related exemption on the supply of gold by nominated agencies to exporters of articles of gold. The Council announced that gem and jewellery exporters will no longer have to pay the 3 per cent Integrated Goods and Services Tax (IGST) to nominated agencies (banks) from January 1, 2019. [Source: hindubusinessline]

Finance Ministry allows businesses to claim GST input credit benefit for FY'18 till Mar 2019

The Finance Ministry has allowed businesses to claim input tax credit benefit for the first financial year of Goods and Services Tax roll out, till March 2019, provided it matches with the return filed by their suppliers. The deadline for claiming input tax credit ended on October 25, 2018.

Notification No.01/2019-Central Tax

Seeks to amend notification No. 48/2017 to amend the meaning of Advance Authorisation

Notification No.02/2019-Central Tax

Seeks to bring into force the CGST (Amendment) Act, 2018

Notification No.03/2019-Central Tax

Seeks to amend the CGST Rules, 2017

Notification No.04/2019-Central Tax

Seeks to amend notification No. 2/2017-Central Tax dated 19.06.2017 so as to define jurisdiction of Joint Commissioner (Appeals)

Notification No.05/2019-Central Tax

Seeks to amend notification No. 8/2017-Central Tax dated 27.06.2017 so as to align the rates for Composition Scheme with CGST Rules, 2017

Notification No.06/2019-Central Tax

Seeks to amend notification No. 65/2017-Central Tax dated 15.11.2017 in view of bringing into effect the amendments (to align Special Category States with the explanation in section 22 of CGST Act, 2017) in the GST Acts

Notification No.07/2019-Central Tax

Seeks to extend the due date for furnishing of FORM GSTR – 7 for the months of October, 2018 to December, 2018 till 28.02.2019

Notification No.01/2019-Central Tax (Rate)

Seeks to rescind notification No. 8/2017-Central Tax (Rate) dated 28.06.2017 in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts.

Notification No.01/2019-Integrated Tax (Rate)

Seeks to rescind notification No. 32/2017-Central Tax (Rate) dated 13.10.2017 in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts.

FINANCE AND MONEY MARKETS

Rates on CDs up 5-10 bps on shortage of liquidity

Rates on Certificates of Deposit (CDs) maturing in three months have increased by 5-10 basis points mainly due to a shortage of liquidity and were quoted in the range of 6.95-7.05%. The average liquidity deficit in the week ended December 28 was Rs1.6 lakh crore, higher than the average liquidity deficit of Rs 1.49 lakh crore in the previous week. [Source: financialexpress]

STARTUP FUNDING

Ola ends Series-J ride with Rs 520 crore from Steadview

Hong Kong-based Steadview Capital has invested over Rs 520 crore (about \$74 million) in Ola as part of an ongoing financing round that values the ride-hailing



company between \$5.5 billion and \$6 billion. This would make Ola the third-most valued Indian private internet company after Flipkart (\$22 billion) and Paytm (\$15-16 billion), going past OYO, valued at \$5 billion.

[Source: ET]

Angel investors back ed-tech startup Indigo Learn

Hyderabad-based ed-tech startup Indigo Learn raised \$135,000 (Rs 96 lakh at current exchange rate) in a follow-on round from angel investors.

[Source: vccircle]

Bengaluru-based Instamojo closes series B funding round at Rs. 50 crore

Bengaluru-based fintech company Instamojo has raised Rs 50 crore in the funding round. Instamojo is a growth gateway platform for micro, medium & small enterprises (MSMEs) that enable them to build manage and grow their business online. It is a one-stop shop for an entrepreneur that caters to their diverse business needs by leveraging technology, data and design.

[Source: business standard]

Corporate Laws & Other Commercial Policies

LS passes general category poor quota bill

A landmark bill seeking to provide 10 per cent reservation in jobs and education for the general category poor was passed by the Lok Sabha.

Exemption from Dematerialization of Securities for Unlisted Public Companies

MCA has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2019 which shall come into force from date 22-01-2019. Earlier the Rule was applicable to every Unlisted Public Company without any exemption given to any class of such Company however, the amendments are made to exempt unlisted Public Companies which are either Nidhi Companies or Government Companies or Wholly Owned Subsidiary (WOS) Companies from mandatory provisions of Dematerialization of shares. [Source: MCA]

MCA Notification for MSME Return filing

In terms of MCA Order S.O. 368(E) Dated 22nd January, 2019,

.....MSME Form-1.....
Applicability & Notification
for Specified Companies

every specified company is also required to file a return as per MSME Form I (providing details of all outstanding dues to Micro or small enterprises suppliers) by 31st October for the period from April to September and by 30th April for the period from October to March. Such Specified Companies are required to file their first MSME Form I within thirty days from the date of publication of notification.

http://www.mca.gov.in/Ministry/pdf/MSMESpecifiedCompanies_22012019.pdf

SEBI

SEBI brings cyber security framework for mutual funds and AMCs

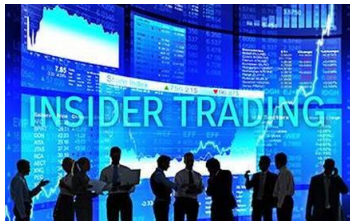
SEBI put in place a robust and stricter cybersecurity framework for mutual funds and asset management companies (AMCs) to guard against breaches of data leak. The new norms would be effective from April 1, 2019. Quarterly reports containing information on cyber attacks and threats experienced by mutual funds/AMCs and measures taken to mitigate vulnerabilities, threats and attacks including information on bugs/vulnerabilities/threats that may be useful for other AMCs/MFs should be submitted to SEBI.

SEBI revises share buyback norms

SEBI has revised the regulations for share buyback to provide more clarity on the requirement to make public announcements. Separately, the market regulator said credit rating agencies will not carry out any activity other than the rating of securities offered through public or rights issue. Besides, any activity, other than the rating of financial instruments and economic or financial research, will have to be hived off by the credit rating agency into a separate entity within two years. [Source: livemint]

SEBI lays down mechanism to prevent insider trading

SEBI has decided to hold company promoters, irrespective of their shareholding status, responsible for violation of insider trading norms if they possess unpublished price-sensitive information (UPSI) regarding the company without any 'legitimate' purpose. SEBI has specified that the term "legitimate purpose" will include sharing of



the UPSI in the ordinary course of business by an insider with partners, collaborators, lenders, customers, suppliers, merchant bankers, legal advisors, auditors, insolvency professionals or other advisors or consultants, provided that such sharing has not been carried out to evade or circumvent the prohibitions of these regulations.

SEBI amends guidelines for REITs, InvITs

SEBI amended guidelines for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) to ease the process of public issue of their units. These trusts can now accept only Applications Supported by Blocked Amount (ASBA). Among others, the manager on behalf of the REIT or InvIT will announce the floor price or price band at least two working days prior to the opening of the bid in case of an initial public offer. Currently, it is five days.

SEBI issues norms for uniform membership in

equity cash, derivatives

SEBI came out with timelines as well as conditions for the implementation of uniform membership structure in equity derivatives and cash segments. The membership structure applicable in the equity derivatives segment would also be implemented in the cash segment from April 1, 2019. It would be for trading member, self-clearing member, clearing member and professional clearing member. [Source: business standard]

Bankruptcy Code

No need to hear out 3rd party during insolvency admission, NCLAT tells NCLT

The National Company Law Appellate Tribunal (NCLAT) has said that the National Company Law Tribunal (NCLT) should not hear any third party, other than the applicant who has taken a company to the NCLT and the company which is the corporate debtor itself, at the time of the admission of a case.

Supreme Court upholds insolvency law in entirety

The Supreme Court upheld the constitutional validity of the Insolvency and Bankruptcy Code (IBC). The law prevents founders from regaining control of delinquent companies. It dismissed the pleas to give operational creditors' parity with financial creditors while deciding a batch of petitions challenging the IBC. [Source: ET]

BANKING

Syndicate Bank to raise up to Rs.500 cr via ESPS

Bank creates separate vertical to manage stressed assets of Rs.5 crore and above Public sector lender Syndicate Bank has proposed to raise equity of up to Rs.500 crore by issuing stocks to its staff members under the ESPS scheme. The bank will issue 300 million shares to employees to raise the capital. [Source: hindubusinessline]

INTERIM BUDGET HIGHLIGHTS 2019

Income Tax

- No tax on income for individuals earning Net income upto Rs 5 lakhs. The basic exemption limit is same as before of Rs 2.5 lakhs for others.

No tax upto total taxable Income of Rs5 Lakhs is in the form of rebate u/s 87A which means, it will be available to only those


Individuals whose Total Taxable Income is less than or equal to Rs. 5Lakhs (after availing all available deductions). There is no change in Tax slabs and there is no exemption to those



Individuals whose total Taxable Income (after all deductions) is more than 5Lakh.

- Standard deduction has been raised to Rs 50,000 from Rs 40,000.
- No tax on notional rent on second self-occupied house property.
- Ceiling limit of TDS u/s 194A on interest income from bank and post office deposits increased from Rs. 10,000 to Rs. 40,000.
- Ceiling limit of TDS u/s 194I on house rent increased from Rs1.8 lakhs to Rs 2.4 lakhs.
- IT returns to be processed within 24 Hours and refund to be issued simultaneously.
- Benefit u/s 80IBA for development of affordable housing scheme has been increased to one more year i.e. 2020.
- Exemption of tax on capital gains u/s 54 has increased from investment in 1 residential house to 2 residential houses which can be utilised once in a life time for taxpayers having long term capital gain upto Rs. 2 Crores.
- Tax on notional rent on unsold real estate inventory to be levied after 2 years form end of the year in which the project is completed. Previously it was 1 year.
- Tax free Gratuity limit has been increased from Rs 10 Lakhs to Rs 20 Lakhs.

Agriculture

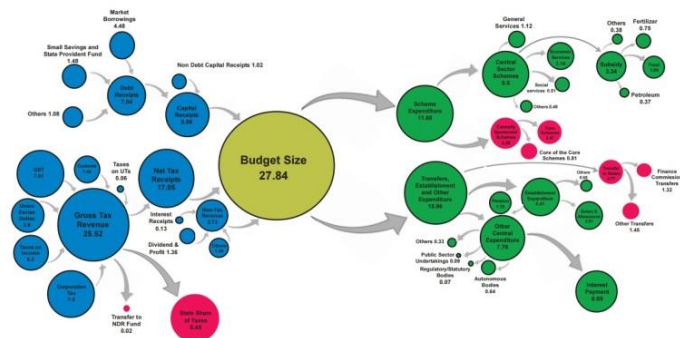
- 2% interest subvention to be given to farmers involved in activities of Animal Husbandry and Fisheries who will avail loan through Kisan Credit Card (KCC). Further in case of timely repayment of loan they will also get additional 3% interest subvention.
- Rs 6000 p.a. to be given to every farmer having upto 2 hectare land under the scheme 'Pradhan Mantri Kisan Samman Nidhi'.


The amount will be transferred in 3 equal instalments of Rs 2000 each.
- Farmers stuck by natural calamities will now get 2-5% interest subvention under the crop insurance scheme.

Others

- Under the scheme 'Pradhan Mantri Shram Yogi Mandhan' monthly pension of Rs 3,000 with contribution of Rs 100 per month for workers in unorganised sector after age of 60 years.

- ESI eligibility cover limit has been raised to Rs 21000 from Rs 15000 p.m.
- Government contribution in New Pension Scheme (NPS) has been increased from 10% to 14%.
- Defence Budget will be crossing Rs 3,00,000 Crores for the first time in 2019-2020.
- Workers who receive grievous injuries will now get Rs 6 lakh from Rs 2.5 lakh through EPFO.
- 2% interest relief for MSME GST registered person.
- Single window clearance for Indian filmmakers.



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