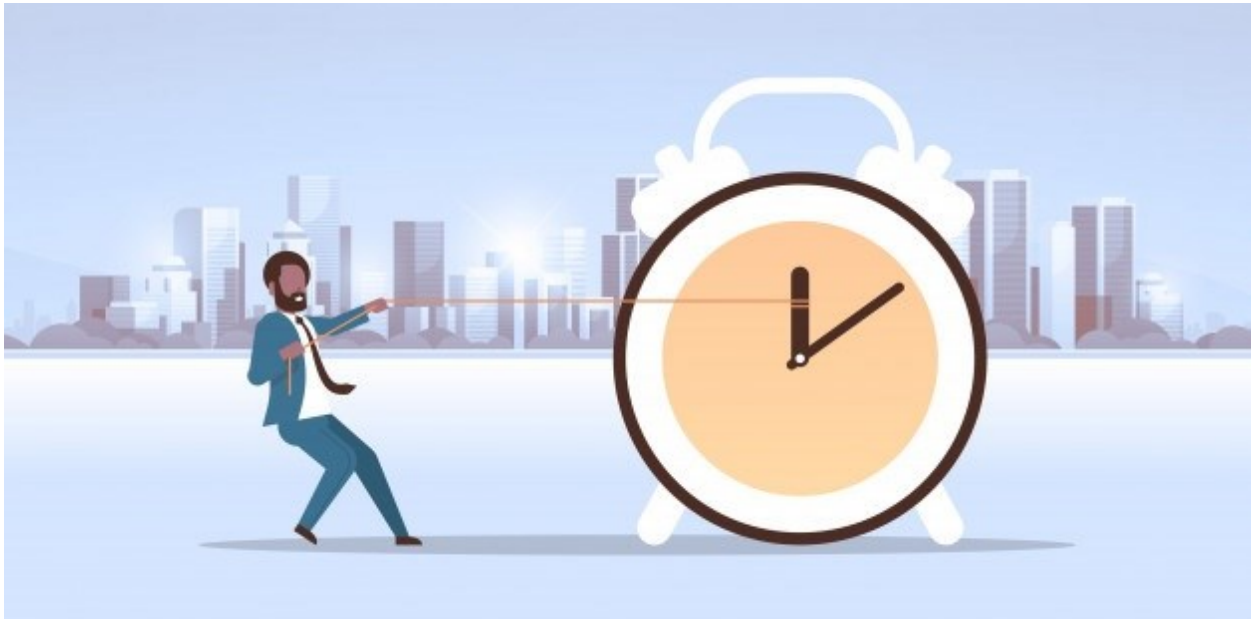


The Compound Opinion

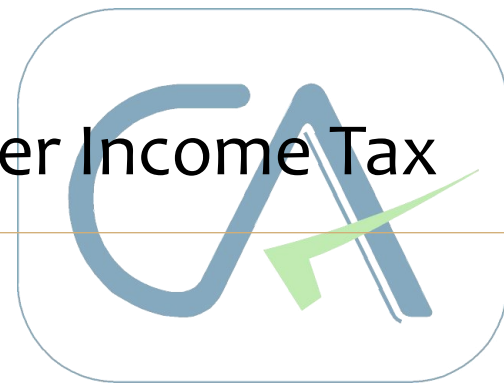


Extension of due dates for various compliance activities under the Income Tax Act.



M. A. Shah & Co.

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Extension of Due Dates under Income Tax

The Cover Story

The CBDT has issued various circulars extending the timelines for various forms under direct tax, as well as for filing income tax returns and various audit report for the Assessment Year 2021-22 due to difficulties in electronic filing:

- **Circular 16/2021 dated 29th August 2021:** ([circular-no-16-of-2021.pdf \(incometaxindia.gov.in\)](#))
 - i. Application for re-registration or intimation of approval u/s 10(23C) (fund set up by the Government), 12A (charitable and religious trust), 35(1)(ii)/(ia)/(iii) (scientific research institution) or 80G (charitable trust) of the Act in Form No. 10A/10AB - Due Date extended to **31st March 2022**.
 - ii. Equalisation Levy Statement to be made by E-Commerce Operator in Form No. 1 for the Financial Year 2020-21 - Due Date extended to **31st December 2021**.
 - iii. Quarterly statement in Form No. 15CC to be furnished by Authorised Dealer in respect of remittances made for the quarter ending 30th June 2021 - Due Date extended to **30th November 2021**.
 - iv. Quarterly statement in Form No. 15CC to be furnished by Authorised Dealer in respect of remittances made for the quarter ending 30th September 2021 - Due Date extended to **31st December 2021**.
 - v. Uploading of declaration received in Form 15G/15H during the quarter ending 30th June 2021 - Due Date extended to **30th November 2021**.
 - vi. Uploading of declaration received in Form 15G/15H during the quarter ending 30th September 2021 - Due Date extended to **31st December 2021**.
- **Circular 17/2021 dated 9th September 2021:** ([circular-no-17-of-2021.pdf \(incometaxindia.gov.in\)](#))
 - i. Due Date for furnishing return of income u/s 139(1) for AY 2021-22: **31st December 2021**
 - ii. Due Date for furnishing audit report for FY 2020-21: **15th January 2022**
 - iii. Due Date for furnishing return of income u/s 139(1) for AY 2021-22 for cases covered in (ii): **15th February 2022**
 - iv. Due Date for furnishing report u/s 92E for FY 2020-21: **31st January 2022**
 - v. Due Date for furnishing return of income u/s 139(1) for AY 2021-22 for cases covered in (iv): **28th February 2022**.
 - vi. Due Date for furnishing revised return (u/s 139(5)) or belated return (u/s 139(4)) for AY 2021-22: **31st March 2022**.
- **No relief shall be provided from interest u/s 234A if the tax liability exceeds ₹1 lakh.**



Compliance Calendar - October 2021

Don't Forget these Dates

OCTOBER 2021

Mon	Tue	Wed	Thu	Fri	Sat	Sun
				1	2	3
4	5	6	7 - Due date for deposit of TDS/TCS for September 2021	8	9	10 - Filing GSTR-7 (TDS)/GSTR-8 (TCS)
11 - Filing GSTR-1 for September 2021	12	13	14	15 - Filing TCS returns for Q2 of FY 2021-22	16	17
18	19	20 - Filing GSTR-3B for September 2021	21	22	23	24 - Filing GSTR-3B (QRMP) for Q2 of FY
25	26	27	28	29	30	31 - Filing TDS returns for Q2 of FY 2021-22



Income Tax

Important Updates

- ⇒ **Notification No. 77/2021: Manner of computation of Short Term Capital Gains and Written Down Value where Depreciation on Goodwill has been obtained:**
- With this Notification, depreciation on acquired or purchased Goodwill of a business or profession cannot be claimed from 01-04-2021. Further, a deduction for the amount paid for acquiring Goodwill shall be allowed on sale of Goodwill.
 - Further, the WDV as on 01-04-2020 will be the cost of acquisition of the goodwill in case depreciation is claimed thereon by the assessee. Hence, the depreciation already claimed and allowed on goodwill will not be reversed or require any adjustment. The deduction for the amount paid for acquiring Goodwill shall be allowed on sale of Goodwill.
- ⇒ **Notification No. 92/2021 dated 10-08-2021: New Section 115JB(2B) r.w. Rule 10RB - Relief in computation of Minimum Alternate Tax (MAT):**
- As per the provisions under Section 115JB of the Income-tax Act, 1961 (the Act), the tax liability of assessee company would be higher of (i) Tax liability computed as per the normal provisions; or (ii) Tax computed @15% (plus surcharge and cess as applicable) on Book Profit under MAT.
 - Relief as per new provisions: Where there is an increase in book profit of the previous year due to income of past year(s) included in the book profit on account of an Advance Pricing Agreement (APA) entered into by the assessee under Section 92CC of the Act or secondary adjustment required to be made under Section 92CE of the Act.

Relief allowable will be $(A - B) - (D - C)$, where

A represents tax payable by the assessee Company under Section 115JB(1) of the Act on the book profit of the fiscal year, including the past income.

B represents tax payable by the assessee Company under Section 115JB(1) of the Act on the book profit of the fiscal year after reducing the book profit with the past income.

C represents aggregate of tax payable by the taxpayer under Section 115JB(1) of the Act on the book profit of those past year(s) to which the past income belongs.

D Aggregate of tax payable by the taxpayer under Section 115JB(1) of the Act on the book profit of past year(s), referred to in item C, after increasing the book profit with the relevant past income of such year(s).

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Income Tax

Important Updates

(Continued from page 4)

- Value of A or B or C or D will be zero if there is no tax payable on the said component.
 - If the value of [(A-B) – (D-C)] calculated is negative, there will be no relief.
 - The assessee company shall make a claim for relief under sub-section (2D) of section 115JB in Form No. 3CEEA electronically.
- ⇒ **Notification No. 95/2021 dated 31-08-2021: Taxation of Interest on Employees' Contribution to Provident Fund in FY 2021-22 and subsequent years.**
- In case employer and employee both contribute to the Provident Fund, the taxable contribution is the contribution in excess of Rs. 2,50,000 for FY 2021-22 and subsequent years and interest accrued on said excess amount contribution of Rs.2,50,000.
 - Where there is no employer's contribution, taxable contribution will be excess of amount contribution of Rs.5,00,000 and interest accrued on the excess portion.
 - For calculating taxable interest, separate record of taxable contribution and non-taxable contribution is to be maintained. Therefore once account is classified as taxable contribution, then interest will be charged every year up to the date of withdrawal.
- ⇒ **Notification No. 113/2021 dated 17-09-2021:** The Central Government, to address the hardship being faced by various stakeholders due to COVID-19 Pandemic, has extended timelines for compliances under the Income Tax Act, 1961 in the following cases, as under:
- i) Time limit for linking of PAN with Aadhaar has been extended to **31st March 2022**.
 - ii) The due date for completion of penalty proceedings under the Act has been extended to **31st March 2022**, where the due date falls between 20-03-2020 to 30-03-2021.
- Further, the time limit for issuance of notice and passing of order by the Adjudicating Authority under the Prohibition of Benami Property Transactions Act, 1988 has been extended to **31st March 2022**, where the due date falls between 20-03-2020 to 30-03-2021.

(Continued on page 6)

Income Tax

Important Updates



(Continued from page 5)

- ⇒ **Notification No. 99/2021 dated 02-09-2021: Declaration and evidence to be furnished in Form 12BBA in paper form by Senior Citizens:**
- Senior Citizens who are of age of 75 of years or more and are having only pension and/or interest income from the same bank from which pension income is received, will have to submit a declaration to the bank in Form 12BBA.
 - The bank shall, on receiving the said declaration, compute the total income after verifying the Deductions under Chapter VI-A and Rebate allowable under the Act, deduct the income tax on the basis of the tax rates in the force.
 - Income tax department may specify procedure or details for furnishing of particulars of Form No. 12BBA referred to income tax department by the bank deducting aforesaid tax before Income Tax Department.





Income Tax

Important Case Laws

1. Engineering Analysis Centre of Excellence Private Limited vs. CIT (Supreme Court)

Issue: Amount paid by Indian companies for sale of software is not royalty u/s 9(1)(vi) and hence, is not taxable in India and attracts no TDS liability u/s 195.

Given the definition of royalties contained in Article 12 of the DTAAs, the amounts paid by resident Indian end-users/distributors to non-resident computer software manufacturers/suppliers, as a consideration for the resale/use of the computer software through End User License Agreements/distribution agreements is not a payment of royalty for the use of copyright in the computer software and that the same does not give rise to any income taxable in India, as a result of which the persons referred to in section 195 of the Income Tax Act were not liable to deduct any TDS u/s 195 of the Income Tax Act.

The provisions contained in the Income Tax Act (section 9(1)(vi), along with explanations 2 and 4 thereof), which deal with royalty, not being more beneficial to the assessee, have no application in the facts of the case.

2. Delhi ITAT, Income Tax 3861-DEL-2016 dated 05-07-2021

Issue: Procedure that Assessing Officer needs to follow if Assessee raises an objection to a notice.

The Assessee, an individual, filed his original return of income for AY 2010-11 on 31-03-2012. Form 26AS of assessee showed amounts from the Land Acquisition Office.

AO issued notice u/s 148 of the Act in 2013. In response, the Assessee, in 2014 submitted that the original return filed for the AY 2010-11 be considered to be the return of income in response to notice u/s 148 and also requested the AO to provide copy of the reasons recorded for initiating the proceedings u/s 148 of the Act. Thereafter, the AO framed an assessment u/s 147 r.w. 143(3) of the Act vide order dated 28-03-2015, determining a higher total income than that declared by the Assessee.

The assessee was aggrieved because in the present case, although the assessee filed his objections against the reasons for reopening the assessment on 27-02-2015, the AO without passing a speaking order on the objections, completed the re-assessment on 28-03-2015. This, according to the assessee, was against the procedures laid down by the Hon'ble

(Continued on page 8)



Income Tax

Important Case Laws

(Continued from page 7)

Supreme Court in the case of GKN Driveshafts India Ltd. vs. ITO (2003).

The Revenue urged that non disposal of the objections of re-assessment proceedings by a separate and speaking order is merely a procedural irregularity and therefore the matter may be set aside to AO.

The ITAT found that the Hon'ble Supreme Court in the case of GKN Driveshafts India Ltd. (supra) has held that when a notice u/s 148 of the Income Tax Act has been issued, the proper course of action for responding to the notice is to file a return and if he so desires, to seek reasons for issuing notices. The Assessing Officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the assessee is entitled to file objections to the issuance of the notice and the AO is bound to dispose of the same by passing a speaking order.

Thus, the procedure that was required to be followed by the AO was to dispose of the assessee's objections by passing a speaking order. In the present case it is an undisputed fact that there was a failure by the AO to comply with the mandatory requirement of disposing of the objections raised by the assessee to the reopening of assessment in terms of the law laid down by the Hon'ble Supreme Court in the case of GKN Driveshafts India Ltd. (supra). The ITAT further found that the Hon'ble Madras High Court, in the case of Jayanthi Natarajan, has held that when the procedure required to be followed has not been adhered to, the entire re-assessment proceedings were vitiated. Thus, it allowed the appeal of the Assessee.

3. Shri Lawrence Rebello vs. ITO (ITAT Indore)

Issue: Charge of income tax – Hardship allowance received from the Developer is a Capital receipt and is not chargeable to tax. [S. 2(24)(vi)]

Assessee was in receipt of Hardship compensation of Rs.27,73,108/- from M/s DB MIG Realtors and Builders Pvt. Ltd. In this regard, the assessee had not offered the money receipt as Hardship Compensation for taxation for the relevant assessment year as Hardship Compensation for taxation is not a revenue receipt but a capital receipt.

However, the AO did not accept the above contention of the assessee and treated the

(Continued on page 9)



Income Tax

Important Case Laws

(Continued from page 8)

compensation received by the assessee during the period under consideration as income of the assessee from other sources and charged it to tax accordingly. The assessee filed an appeal before CIT(A). CIT(A) dismissed the appeal of the assessee. The assessee thereafter filed an appeal before the ITAT.

ITAT held that the benefit received by the assessee is in the form of a bigger size of flat and the amount received as hardship allowance from the developer is a capital receipt, which cannot be treated as revenue receipt for taxing as income.



Goods and Services Tax (GST)



Important Updates

- ⇒ **Notification No. 31/2021 dated 30-07-2021:** To exempt taxpayers having Aggregate Annual Turnover up to Rs. 2 crores from the requirement of furnishing Annual Return for FY 2020-21.
- The Central Goods and Services Tax (Sixth Amendment) Rules, 2021 came into force vide notification no. 30/2021 dated 30-07-2021.
 - Through the said rules, it is stated that every registered person, other than those referred to as Input Service Distributor, a person paying GST (TDS), a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds Rs. 5 Crore, shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C, along with the annual return in Form GSTR 9 on or before the 31st December following the end of such financial year, electronically through the common portal.
 - As per the above, Certification by the Auditor is omitted and modifications in Form GSTR 9 and GSTR 9C have been notified.
 - In respect of registered persons whose aggregate turnover in the FY 2020-21 is up to Rs. 2 Crore, filing annual return for the said financial year is optional.
- ⇒ **Extension of GST Amnesty Scheme:**
- Those who have not filed their GSTR- 3B for any month or quarter from July 2017 till April 2021 can file the returns before 30th November 2021 with a late fee of Rs. 1000 per return.
 - If the tax payable in any return is Nil, then the late fee shall be Rs. 500 per such return.
 - Due dates for filing of revocation applications for suo-moto cancellation of GST registration is extended. Those who were required to file revocation applications during the period 1st March 2020 to 31st August 2021, the time limit for such applications is extended to **30th September 2021**.
- ⇒ **Central Tax Notification No. 35 & 36 dated 24-09-2021:** To give the effect of recommendations in the 45th GST Council Meeting as under:

(Continued on page 11)



Goods and Services Tax (GST)

Important Updates

(Continued from page 10)

- Rule 10B has been inserted newly whereby Aadhaar authentication has been mandated for a registered person in order to be eligible for filing:
 - i. Application for Revocation of Cancellation of Registration
 - ii. GST Refund Application
- If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely:
 - i. Aadhaar Enrolment ID, and
 - ii. Bank passbook with photograph or Voter Identity Card issued by the ECOI or Passport or Driving License.

Provided that such person shall undergo the authentication of Aadhaar number within a period of thirty days of the allotment of the Aadhaar number.
- Persons having obtained new GST registration are required to upload their bank details, which are in their name and their PAN number is also to be updated with the bank. The details have to be furnished within 45 days of obtaining registration or else the registration might be cancelled.
- It is also clarified that specified persons such as Government Departments, PSUs, persons who are not citizens of India, etc. who are already registered under the GST law, are excluded from the requirement of getting Aadhaar Authentication.
- GST Form ITC-04 is required to be filled by person who send the goods for Job Work. Earlier ITC -04 was required to be filed quarterly, however, w.e.f. 01st October 2021, taxpayers whose aggregate turnover in the preceding financial year is greater than Rs. 5 Crores shall furnish ITC-04 once in six months i.e., for April to September & for October to March. Taxpayers whose aggregate turnover in the preceding financial year is less than Rs. 5 Crores shall furnish ITC-04 annually for a financial year.

(Continued on page 12)

Goods and Services Tax (GST)



Important Updates

(Continued from page 11)

- ⇒ **Notification No. 01/2021 Compensation Cess (Rate) dated 30-09-2021:** Applicability of Compensation Cess on 'Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice' falling under tariff heading 2202 at 12% in addition to 28% GST.
- ⇒ **Circular No. 160/16/2021 dated 20-09-2021 (Amended Provisions):**
 - In respect of ITC claim on debit notes issued before 01-01-2021, the relevant financial year for claiming ITC was the financial year in which the original invoice was issued. But after 01-01-2021, the financial year for determining the claim of ITC will be the date of the debit note itself and not that of the original invoice.
 - Example 1: A debit note dated 07-07-2021 is issued in respect of the original invoice dated 16-03-2021. As the invoice pertains to FY 2020- 21, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21.
 - However, as the debit note has been issued in FY 2021-22, the relevant financial year for availment of ITC in respect of the said debit note shall be 2021-22 in terms of amended provision of section 16(4) of the CGST Act.
 - Example 2: A debit note has been issued on 10-11-2020 in respect an invoice dated 15-07-2019. As per the amended provisions of section 16(4), the relevant financial year for availment of input tax credit on the said debit note, on or after 01-01-2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of FORM GSTR-3B for the month of September, 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.

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