

<u>Due dates in October 2021</u>		
Date	Statute	Particulars
1 st	GST	Compliance of Dynamic QR code on B2C invoices (For taxpayers having turnover more than Rs.500 Crores)-N.No.14/2020&28/2021- CT from 01 st Oct 2021
7 th	Income Tax	Due date for deposit of Tax deducted/collected for the month of September 2021. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.
7 th	Income Tax	Due date for deposit of TDS for the period July 2021 to September 2021 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H.
10 th	GST	Monthly Return to be filed by the person liable to deduct TDS for period Sept 2021: GSTR-7.
10 th	GST	Monthly Return to be filed by the e-commerce operators who are required to deduct TCS for period Sept 2021: GSTR-8
11 th	GST	Monthly Return due date for filing details of Outward Supplies who have not opted QRMP Scheme for period Sept 2021: GSTR-1
13 th	GST	Normal Taxpayers under QRMP Scheme for period Sept 2021: GSTR-1 (IFF-Optional)
13 th	GST	Due date for input service distributors to provide details of the distributed input tax credit and inward supplies for period Sept 2021: GSTR-6.
15 th	Income Tax	Due date for issue of TDS Certificate for tax deducted under section 194-IA/194-IB/194M in the month of August 2021.
15 th	Income Tax	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of September 2021 has been paid without the production of a challan
15 th	Income Tax	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of September 2021
15 th	Income Tax	Quarterly statement of TCS deposited for the quarter ending September 30, 2021
15 th	PF	Due Date for Payment of Provident Fund Contribution
15 th	ESI	Due Date for Payment of ESI Contribution
18 th	GST	CMP-08 for Quarter July- Sep2021 (For Composite Taxpayers - Rule 62). For the period Jul-Sept 2021: CMP-08
20 th	GST	Due date for filing details of Outward Supplies and inward supplies and ITC claimed and payment of tax for registered person* who have not opted QRMP Scheme for period Sept 2021: GSTR-3B *Turnover exceeding INR 5 Crores or Opted file monthly return
20 th	GST	Summary of outward taxable supplies & tax payable by a non-resident taxable person for period Sept 2021: GSTR-5
20 th	GST	Return form to be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) for period Sept 2021: GSTR-5A
22 nd	GST	Due date for filing details of Outward Supplies and inward supplies and ITC claimed and payment of tax for registered person who have opted QRMP Scheme (GROUP-A STATES) for period Sept 2021: GSTR-3B Group A states - Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of

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		Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.
24 th	GST	Due date for filing details of Outward Supplies and inward supplies and ITC claimed and payment of tax for registered person who have opted QRMP Scheme (GROUP-B STATES) for period Sept 2021: GSTR-3B Group B states - Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.
25 th	GST	Challan for depositing GST by taxpayers who have opted for the quarterly filing of GSTR-3B under QRMP scheme for period Sept 2021: PMT-06
30 th	Income Tax	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA/194-IB/194M for the month of September, 2021
30 th	Income Tax	Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2021
31 st	Income Tax	Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2020-21
31 st	Income Tax	Quarterly statement of TDS deposited for the quarter ending September 30, 2021
31 st	Income Tax	Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA)
31 st	Income Tax	Payment of tax under the Direct tax Vivad se Vishwas Act, 2020 with additional charge.
31 st	Income Tax	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2021
31 st	Income Tax	Copies of declaration received in Form No. 60 during April 1, 2021, to September 30, 2021, to the concerned Director/Joint Director
31 st	Income Tax	Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager (if the assessee is required to submit return of income on October 31, 2021).
31 st	Income Tax	Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is October 31, 2021).
31 st	Income Tax	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on October 31, 2021).
31 st	Income Tax	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit return of income on October 31, 2021).
31 st	Income Tax	Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2019-20 and of foreign tax deducted or paid on such income in Form no. 67. (If due date of submission of return of income is October 31, 2021).
31 st	Income Tax	Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company does not have any international/specified domestic transaction]
31 st	GST	Last date to opt in/opt out of QRMP Scheme for quarter Oct-Dec 2021 (Rule 61A)

Note:

1. 15 October 2021: Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending September 2021
*Note: The due date for furnishing of quarterly statement of foreign remittances for Quarter ending September 2021 **has been extended from October 15, 2021 to December 31, 2021** vide Circular no. 16/2021, dated 29-08-2021.*
2. 15 October 2021: Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September 2021
*Note: The due date for uploading declarations **has been further extended from October 15, 2021 to December 31, 2021** vide Circular no. 16/2021, dated 29-08-2021*
3. 31 October 2021: Due date for filing of return of income for the assessment year 2021-22 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies
*The due date for furnishing of return of income for Assessment Year 2021-22 **has been extended from October 31, 2021, to November 30, 2021,** vide Circular no. 9/2021, dated 20-05-2021
*The due date for furnishing of return of income for Assessment Year 2021-22 **has been further extended from November 30, 2021, to February 28, 2022,** vide Circular no. 17/2021, dated 09-09-2021**
4. 31 October 2021: Audit report under section 44AB for the assessment year 2021-22 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
*The due date for furnishing of audit report for Assessment Year 2021-22 **has been extended from October 31, 2021, to November 30, 2021,** vide Circular no. 9/2021, dated 20-05-2021
*The due date for furnishing of audit report for Assessment Year 2021-22 **has been further extended from November 30, 2021, to January 31, 2022,** vide Circular no. 17/2021, dated 09-09-2021**
5. 31 October 2021: Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.
*The due date for furnishing of report **has been extended from October 31, 2021, to November 30, 2021,** vide Circular no. 9/2021, dated 20-05-2021, is **hereby further extended to 31st January 2022,** vide Circular No. 17/2021 dated 09th September 2021*
6. 31 October 2021: Due date for filing of audit report under section 44AB for the assessment year 2021-22 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2021)
*The due date for filing of audit report for Assessment Year 2021-22 **has been extended from September 30, 2021, to October 31, 2021,** vide Circular no. 9/2021, dated 20-05-2021, is **hereby further extended to 15th January 2022,** vide Circular No. 17/2021 dated 09th September 2021.*
7. 31 October 2021: Intimation in Form 10BBB by a pension fund in respect of each investment made in India for quarter ending September 2021
*The due date for intimation **has been extended from October 31, 2021, to December 31, 2021,** vide Circular no. 16/2021, dated 29-08-2021*

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8. 31 October 2021: Intimation in Form II by Sovereign Wealth Fund in respect of investment made in India for quarter ending September 2021
*The due date for intimation **has been extended from October 31, 2021, to December 31, 2021**, vide Circular no. 16/2021, dated 29-08-2021*

A. Direct Tax Updates

- 1. Circular No. 17/2021 dated 09th September 2021**- Extension of timelines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22:
- The due date of furnishing of Return of Income for the AY 2021-22, which was 31st July 2021 under sub-section (1) of section 139 of the Act, as extended to 30th September 2021 vide Circular NO.9/2021 dated 20.05.2021, is hereby further extended to 31st December 2021.
 - The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which is 30th September 2021, as extended to 31st October 2021 vide Circular NO.9/2021 dated 20.05.2021, is hereby further extended to 15th January 2022.
 - The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which is 31st October 2021, as extended to 30th November 2021 vide Circular NO.9/2021 dated 20.05.2021, is hereby further extended to 31st January 2022.
 - The due date of furnishing of Return of Income for the AY 2021-22, which is 31st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November 2021 vide Circular NO.9/2021 dated 20.05.2021, is hereby further extended to 15th February 2022.
 - The due date of furnishing of Return of Income for the AY 2021-22, which is 30th November 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December 2021 vide Circular NO.9/2021 dated 20.05.2021, is hereby further extended to 28th February 2022.
 - The due date of furnishing of belated/revised Return of Income for the AY 2021-22, which is 31st December 2021 under sub-section (4)/subsection (5) of section 139 of the Act, as extended to 31st January 2022, vide Circular NO.9/2021 dated 20.05.2021, is hereby further extended to 31st March 2022
- 2. Notification No. 101/2021 dated 06th September 2021** – CBDT inserts a new rule w.r.t Prescribed manner of authentication of an electronic record under electronic verification code under section 144B(7)(i)(b), where an assessee or any other person submits an electronic record by logging into his registered account in designated portal of the Income-tax Department, it shall be deemed that the electronic record has been authenticated under electronic verification code.
- 3. Notification No105/2021 dated 10th September 2021** – In exercise of the powers conferred by clause (xi) of the proviso to section 56 (2) (x) read with section 295 of Income-tax Act, 1961. Insertion of clause (4) in In the Income-tax Rules, 1962, in rule 11UAC (4) *any movable property, being equity shares, of the public sector company, received by a person from the Central Government or any State Government under strategic disinvestment.*

B. GST Updates

1. 158/14/2021-GST- Circular dated 06.09.2021: Clarification regarding extension of time limit to apply for revocation of cancellation of registration

Sl No	Date of Cancellation of Registration	Timeline for filing revocation	Extension u/s 30(1)(a)	Extension u/s 30(1)(b)	Due date for filing revocation	Due date extension by Joint / Additional Commissioner	Due dates extension by Commissioner	Extension as per the Notification on 34/2021-CGST	Additional extended days
		30days	30 days	30 days					
1	01-Nov-20	✓	✗	✗	01-Dec-20	NA	NA	30-Sep-21	0
2	25-Dec-20	✓	✓	✓	24-Jan-21	23-Feb-21	25-Mar-21	30-Sep-21	0
3	25-Jan-21	✓	✓	✓	24-Feb-21	26-Mar-21	25-Apr-21	30-Sep-21	0
4	01-Jul-21	✓	✓	✓	31-Jul-21	30-Aug-21	from 01.10.2021	30-Sep-21	30
5	01-08-2021	✓	✓	✓	31-Aug-21	from 01.10.2021	from 01.11.2021	30-Sep-21	60
6	01-Sep-21	✓	✓	✓	01-Oct-21	31-Oct-21	30-Nov-21	NA	NA

2. 159/15/2021-GST-Circular dated 20.09.2021: Intermediary services in GST

- Intermediary services shall mean:
 1. A broker, an agent, or any other person,
 2. who arranges or facilitates,
 3. the supply of goods or services or both or services,
 4. between two or more persons, but
 5. does not include a person who supplies such goods or services or both on his own account.
- From above it can be said that following are prerequisite for a service to be called as intermediary service:
 1. Minimum three parties
 2. Two distinct supplies
 - a. Main Supply – between two Principals, which can be supply of goods or services or securities.
 - b. Ancillary Supply – facilitates or arranges the main supply.
 3. Intermediary service provider has characteristics of an agent, broker, or any other similar persons.
 4. Does not include a person providing services on his own account. Example: Sub-contracting.

Examples for services considered as intermediary services

- **Illustration 1:**

‘A’ is a manufacturer and supplier of a machine. ‘C’ identifies customer ‘B’ for ‘A’ and facilitates the sale of Machine to ‘B’. ‘C’ in turn charges commission from ‘A’ on such sale of Machine.

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Prerequisite test in above transaction

1. Three Parties: 'A', 'C' & 'B'.
2. Two distinct supplies:
 - a. Main Supply: Supply of Machine
 - b. Ancillary Supply: Identifying the Customer and facilitating the Sale of Machine.
 - c. Intermediary: 'C' is an agent charging Commission.
 - d. 'C' is not supplying Machine to 'B' on his account but facilitates supply of Machine.

Examples for services not considered as intermediary services

• Illustration 1:

'X' is a software company which develops software for the clients as per their requirement. 'X' has a contract with 'Y' for providing some customized software for its business operations. 'X' outsources the task of design and development of a particular module of the software to 'Z', for which 'Z' may have to interact with 'Y', to know their specific requirements.

Prerequisite test in above transaction

1. Three Parties: 'X', 'Y' & 'Z'.
2. Two distinct supplies:
 - a. Main Supply: Supply of Customized Software.
 - b. Ancillary Supply: Not Applicable, as 'X' is supplying services to 'Y' on principal-to-principal basis and 'Z' is supplying services to 'X' on principal-to-principal basis.
3. Intermediary: Not applicable, as 'A' and 'C' are providing services of professional in nature. 'Z' is supplying Software Services to 'X' on his account as a sub-contractor.

3. 160/16/2021-GST-Circular dated 20.09.2021: Clarification in respect of certain GST related issues

Debit note issued after 1.1.2021?

With effect from 01.01.2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of the CGST Act.

Example

"Debit note dated 07.07.2021 is issued in respect of the original invoice dated 16.03.2021
As the Debit note is issued after 01.01.2021 so it should be considered as raised in FY 2021-22 on basis of Debit note date 07.07.2021"

What about Debit notes issued before 01-01-2021?

The availment of ITC on debit notes in respect of amended provision shall be applicable from 01.01.2021. Accordingly, for availment of ITC on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 01.01.2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 01.01.2021

Example

"Debit note dated 10.11.2020 is issued in respect of the original invoice dated 15.07.2019
As the Debit note is issued before 01.01.2021 so it should be considered as raised in FY 2020-21 on basis of date of invoice being 15.07.2019"

Physical copy of invoice to be carried or not?

There is no need to carry the physical copy of tax invoice in cases where E-invoice has been generated by the supplier as per CGST Rules and production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would be sufficient.

Where the goods are required to pay export duty as per custom tariff act 1975, are prohibited from claiming GST refund, where it is NIL rate of export duty are allowed to claim GST refund

4. **162/18/2021-GST-Circular dated 25.09.2021: Clarification in respect of refund of tax**

In accordance with section 77 of CGST Act 2017 or section 19 of IGST Act 2017, any registered person who has erroneously paid CGST and SGST instead of IGST or IGST instead of CGST and SGST, and subsequently found by the taxpayer himself or any tax officer that the tax was erroneously paid under wrong head. The taxpayer can claim the refund of the tax erroneously paid, provided he has made the payment under correct head. The last date for filing Refund application is as follows:

Computation of last date of filing Refund, in case of payment of tax under wrong head shall be as follows:

Sl.No.	Particulars	Last date of filing Refund
1	Post identification of erroneous payment of tax	Refund to be claimed within 2 years, the last date of claiming the refund shall be as follows:
a	Paid under correct head within on or before 24-Sept-2021	23-Sep-23
b	Paid under correct head after 24-Sept-2021 (on identification of any tax officer at scrutiny, assessment, refund, say adjudicating authority found the tax paid under correct head and correctly paid on 10-Sept-22)	09-Nov-24

Taxpayer would not be able to claim the Refund of the tax erroneously paid, where he has adjusted the erroneously paid tax by issuance of credit note under section 34 of the CGST Act, 2017.

5. **161/17/2021-GST-Circular dated 20.09.2021: Clarification on whether supply of services between distinct persons to be treated as export of services**

Case 1:

Any supply of service by Indian company to its branch or agency or representational office outside India (not incorporated under the laws of that country) shall be treated as supply of service to distinct persons and will not be covered under the definition of exports of services.

Case 2:

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Any supply of service made by a branch or an agency or representational office of a foreign company (not incorporated in India) to any establishment of the said foreign company outside India, shall be treated as supply to distinct persons and shall not be considered as export of services.

Case 3:

Supply of services by a subsidiary/ sister concern/ group concern, etc. of a foreign company, which is incorporated in India under the Companies Act, 2013 (and thus qualifies as a 'company' in India as per Companies Act), to the establishments of the said foreign company located outside India (incorporated outside India), would be treated as export of service as they are separate entities.

Case 4:

The supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India is supply of service to a separate entity and would be treated as export of service.

C. Corporate Law Updates

1. General Circular No.15/2021 - Extension of last date of filing of Cost Audit Report to the Board of Directors under Rule 6(5) of the companies (Cost Records and Audit) Rules, 2014

- If cost audit report of the companies for the financial year 2020-21 is submitted by 31st October, 2021 by the cost auditor to the Board of Directors, then the same would not be viewed as violation of rule 6(5) of Companies (cost records and audit) Rules, 2014.
- Consequently, the cost audit report for the financial year ended on 31st March, 2021 shall be filed in e-form CRA-4 within 30 days from the date of receipt of the copy of the cost audit report by the company.
- However, in case a company has got extension of time for holding Annual General Meeting under section 96(1) of the Act then e-form CRA-4 may be filed within the timeline provided under the proviso to rule 6(6) of the companies (Cost Records and Audit) Rules, 2014.

2. MCA Order dated 23/09/2021 - Extension of time for holding of Annual General Meeting (AGM) for the financial year ended on 31/03/2021

For all the states, their respective ROCs **extend the time to hold AGM , other than first AGM** for the financial year ended on 31/03/2021, **for a period of Two Months** beyond the due date by which companies are required to conduct their AGMs for the financial year 2020-21, citing many difficulties faced due to second wave of Covid-19 and consequent lockdowns etc., without filing applications in form GNL-1 (seeking extension for AGM from their ROC).

Please Note:

This order shall not be applicable to the companies, If the extension for AGM is already granted under GNL-1 to them for a period of more than two months, before this order was issued.

Judicial Decisions

International Taxation & Transfer Pricing

1. **Integrated Container Feeder Service [TS-907-ITAT-2021(Mum)]** -The ITAT observed that the Indian entities which were said to be PE of the foreign entity were in fact providing services to many shipping

companies including the said foreign entity in the ordinary course their business. Hence, they did not establish Agency PE of the foreign entity in India.

2. **Trigo SAS [TS-855-ITAT-2021(PUN)]**- The ITAT relying on the SC ruling in Engineering Analysis held that the facts were similar and as there was no parting with copyright as envisaged within the meaning of Section 14 of the Copyright Act by the Licensor (assessee) to Licensee who is given access to only use the copyrighted software against which assessee's receipts cannot be taxed as royalty.". The Indian entity was also in receipt of management services which included services such as legal, financial, human resources, IT and telecom, operational support, quality etc., which were held to be in the nature of managerial, technical or consultancy services and taxable as FTS u/s 9(1)(vii); Assessee claimed the services to be managerial, and submitted that the more beneficial provisions of India-UK DTAA as available under Protocol 7 of the India-France DTAA would be applicable. The Tribunal held that no technical knowledge was made available for services provided by Assessee to Indian entity and it was a case of rendering services involving technical knowledge, which got immediately consumed at the time of delivery and hence DTAA being more beneficial, no WHT on the payments made by Indian entity.
3. **Crescent Payments Pvt. Ltd [TS-834-ITAT-2021(Mum)]**- The ITAT held that the amounts received by the Indian entity towards allotment of shares which was not allotted by the Indian entity and therefore treated the said amount received as gift. The ITAT held that this was not taxable income of the Indian entity. It held that that merely because of FEMA violation of non-issuance of shares, the receipt cannot be treated as income of Indian entity. Applying Section 28(iv), the ITAT held that the receipt was not in the ordinary course of business, and conditions for application of Section 28(iv) are not satisfied. On the issue of taxability u/s 56, ITAT held that the said receipt should first be chargeable u/s 2(24) to be taxable under any of the heads of income. Relying on an SC ruling, it held that amount received on account of share capital cannot to be treated as business income, and hence this amount is non-taxable.
4. **Myntra Designs Pvt. Ltd [TS-833-ITAT-2021(Bang)]**- The Bangalore ITAT allows Assessee's appeal and holds that advertisement charges paid to Facebook are not in the nature of royalty, thus Assessee not liable for TDS. The ITAT notes that the facts in the instant case it is held that beneficial DTAA provisions are to be considered for determining taxability of income and mere usage of facility provided by Facebook does not render the payments as 'royalty' as copyright attached to the facility is not parted with. Thus, follows its reasoning and holds payments made to Facebook Ireland cannot be considered as royalty and therefore did not give rise to any taxable Income; Hence, holds Assessee not liable to deduct tax at source u/s 195 and sets aside CIT(A)'s order.
5. **Evolving Systems Networks India Pvt Ltd [TS-445-ITAT-2021(Bang)-TP]**- The ITAT in this case held that the provision of bad and doubtful debts are operating in nature and would form part of the operating expenses for the calculation of the operating margins.
6. **Mobileum Inc [TS-440-ITAT-2021(Mum)-TP]**- The ITAT in this case held that the no additional income can be attributable to the alleged Indian-PE if the assessee (non-resident) has remunerated its Indian agent at ALP.
7. **IHS Global P. Ltd, (formerly IHS Parts Management P. Ltd) [TS-424-ITAT-2021(Bang)-TP]**- Bangalore ITAT accepted the assessee's ground and agreed for application of margins agreed under MAP in respect of US-based AE to the transactions with non-US AEs.

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8. **Greatship (India) Ltd [TS-398-ITAT-2021(Mum)-TP]-** The ITAT accepted the assessee's corporate guarantee commission of 0.41% at ALP and delete the additional TP adjustment. The assessee had given guarantee on behalf of its two foreign AEs for facilitation of loan from overseas banks for working capital purpose; Though no commission was charged from AEs, the assessee however, made a suo-moto adjustment on the basis of guarantee commission paid by it the banks. Assessee had applied internal CUP as MAM and determined the ALP of the guarantee commission ought to have been received from its AEs at 0.41%. This was upheld by the ITAT.
9. **Mondon Investments Ltd [TS-384-ITAT-2021(DEL)-TP]-** The ITAT deleted the deemed interest income and held that the 'paid' cannot be extended to 'payable' in respect of interest under Article 11 of the India-Cyprus DTAA.

Profits and gains of Business/Profession

1. **Jayesh T Kotak [TS-643-SC-2021]** The SC dismisses the revenue's SLP against the ruling of Gujarat HC wherein it was held that there cannot be any deemed dividend u/s 2(22)(e) where no benefit is derived from loan transaction between companies in which Assessee had substantial interest.
2. **South Indian Bank Ltd [TS-849-SC-2021]** -SC allows appeals of South Indian Bank and other banks and held that the assessee is not legally obligated to maintain separate investment funds for earning different kinds of investment incomes and where non-interest-bearing funds available are larger than the funds deployed in tax-free investments, disallowance u/s 14A cannot be made.
3. **Mitsubishi Corporation [TS-869-SC-2021]**-SC upheld the Delhi HC ruling in Jacabs/Mitsubishi and holds that Section 234B cannot be interpreted in isolation and the liability to pay interest for years prior to AY 2013-14 shall be construed by taking into account the provisions of Section 209(1)(d) with emphasis on the phrase 'would be deductible or collectible at source. Thus, holds that payee would not be liable to pay interest u/s 234B for sums on which tax was deductible at source but was not deducted by the payer.
4. **Davanam Constructions Private Limited [TS-851-ITAT-2021(Bang)]**-The Bangalore ITAT rejects the Assessee's appeal and holds that interest-free loan advanced to subsidiary in different line of business which was further advanced to related parties does not satisfy the conditions of commercial expediency. The court holds that the Assessee could not establish any commercial expediency in advancing interest-free loan as both the companies are in different line of business; Thus, holds the addition of proportionate interest to be justifiable.
5. **Northern Operating Services Pvt. Ltd [TS-818-ITAT-2021(Bang)]**-The Bangalore ITAT allows ESOP expenses on vesting of the options despite non-deduction of tax at source by the employer. The Assessee floated ESOP Scheme and vested ESOP rights to certain employees. The Assessee claimed deduction of difference between market price and issue price of shares u/s 37(1) and the Revenue held the deduction to be allowable only when the discount offered was taxable as perquisite in the hands of the employees and also subjected to TDS failing which would attract disallowance u/s 40(a)(ia). The ITAT observes that there was no dispute on allowability of expenditure, but disallowance was on account of non-deduction of tax at source on perquisite taxable in the hands of the employees. The ITAT held that "assessee would be liable to deduct tax when the discount amount becomes perquisite in the hands of the concerned employee."
6. **Infosys Limited [TS-812-ITAT-2021(Bang)]**-The Bangalore ITAT remands appeals preferred by Infosys Limited on the issue of TDS liability u/s 195 on various international transactions for fresh consideration on the basis of SC ruling in Engineering Analysis. The Assessee made payments to non-residents for software license/ web hosting / cloud hosting services apart from data, bandwidth and link connectivity charges and legal and professional fees and Assessee preferred an appeal before CIT(A) u/s 248 for a declaration that no tax was deductible on the payments made by the Assessee whereas CIT(A) held the amounts to be taxable and liable for TDS u/s 195. The ITAT observes that CIT(A) placed reliance on Karnataka HC ruling in Samsung which stood over-ruled by SC ruling in Engineering Analysis. It further

observes that End User's License Agreement was not analyzed while determining the taxability, thus, remits the matter back for afresh consideration.

7. **Waterline Hotels Pvt. Ltd [TS-903-ITAT-2021(Bang)]**-The Bangalore ITAT allows Assessee's appeal and upholds that capitalisation of pre-commencement rent and other expenditure incurred before commencement of business operations, in accordance with accepted accounting principles.

Capital Gains

1. **Agnus Holdings Pvt. Ltd [TS-857-ITAT-2021(Bang)]**-The Bangalore ITAT rules that signing of the Joint Development Agreement (JDA) does not constitute deemed transfer u/s 2(47)(v) and not determinative of taxability under capital gains without other conditions u/s 53A of the Transfer of Property Act, 1882 (TPA) being satisfied.

Assessment and Appeals

1. **In Re Cognizance for extension of limitation [TS-901-SC-2021]** The SC has restored its order dated Mar 8, 2021, thereby lifting the extension in limitation period, states that the limitation period will start running from Oct 3, 2021, and in computing the limitation period for any suit, appeal, application or proceeding, the period from Mar 15, 2020 till Oct 2, 2021 shall stand excluded; Remarks that, "In spite of all the uncertainties about another wave of the deadly COVID-19 virus, it is imminent that the order dated 08.03.2021 is restored as the situation is near normal", and consequently, balance period of limitation remaining as on March 15, 2021, if any, shall become available with effect from Oct 3, 2021.
2. **Ashwini Sahakari Rughnalya & Res. Centre [TS-876-SC-2021]**-The SC dismisses Assessee's appeal against denial of exemption u/s 10(23C) (via) and denies to interfere in the decision on facts made by the competent authority and affirmed by Bombay HC that it cannot be said to be perverse or having complete absence of rationality. The Assessee was held not eligible exemption u/s 10(23C) (via) since it distributed the IPD earnings to doctors at the rates charged at par with other hospitals run on commercial basis. SC observes that the benefits in terms of the Section 10(23C) (via) are available to any hospital existing solely for philanthropic purposes and not for purposes of profit which is same as the erstwhile provisions of Section 10(22A) and the only change is due to the words "may be approved by the prescribed authority.
3. **Ford India Private Limited [TS-887-HC-2021(MAD)]**-Madras HC sets aside the assessment order passed without waiting for dispute Resolution Panel's (DRP) directions since the Assessee had approached the DRP. The Assessee preferred a writ petition for quashing of the assessment order and for issuing directions to DRP for considering its objections as despite approaching DRP the assessment order was passed. The court clarifies that on DRP issuing directions, AO shall proceed with the assessment de novo on its own merits, in accordance with law and complete the exercise as expeditiously as permissible.
4. **Rajeev Behl [TS-904-HC-2021(DEL)]**-The Delhi HC dismisses writ petition preferred by a private companies' director seeking restraint against recovery of demand outstanding against the companies. It holds that the burden is on the director to prove that the non-recovery of tax demand from the companies was not due to his gross negligence, misfeasance or breach of duty on his part
5. **MasterCard Asia Pacific Pte. Ltd.[TS-884-HC-2021(DEL)]**-The Delhi HC stays assessments of MasterCard Asia Pacific Pte. Ltd. (Assessee) during the pendency of the writ petition against the AAR Ruling. The Assessee sought stay on passing of draft/final assessment orders during the pendency of writ petition and contended that despite the HC's interim orders, the Revenue insisted on passing final assessment orders. The revenue justified its actions on the basis that HC's interim orders covered assessment proceedings for AYs 2015-16, 2016-17, 2017-18; HC holds, "it would not be appropriate to pass assessment orders pursuant to the impugned AAR Ruling ... especially when the tax is being fully deposited by the petitioner"; Clarifies that the interim stay order dtd Oct 12, 2018 was made absolute on Oct 5, 2019 and applies to all assessments of the Assessee which will be made consequent to the AAR Ruling; Also clarifies

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that by virtue of the present interim order, the Revenue shall be entitled to the benefit of Explanation 1(ii) of Section 153.

6. **Newslaundry Media Pvt. Ltd. & Anr [TS-882-HC-2021(DEL)]**-The Delhi HC disposes of Newslaundry's writ petition as the Revenue gives an undertaking, based on the instruction of DDIT (Investigation), that the seized material is in safe custody of the Income Tax Department and it shall be used for the purposes of investigation and in accordance with law. Revenue further assured that the seized material shall not be leaked and the principle of confidentiality as incorporated in Section 138 shall be abided by. Thus, HC accepts the undertaking and holds that the Revenue is bound by the same.
7. **Kone Elevator India Private Limited [TS-881-HC-2021(MAD)]**-The Madras HC dismisses Assessee's writ petition challenging AO's action of invoking Sec.147 instead of passing final assessment order for AY 2013-14. The Assessee submitted that absent the objection filed against the draft assessment order, AO (as per Sec.144C) had to pass the final assessment order within a period of 30 days from the end of the month given, however failed to do the same within the time limit (on or before 31.03.2017) and instead after a considerable lapse of time, invoked powers u/s.147 and issued a notice u/s.148 (dated 28.03.2018) for reopening of assessment; Subsequently, vide assessment order dated 11.10.2018, AO rejected Assessee's objections for reopening of assessment. Stating that where no assessment orders are passed, AO u/s.144C (4) is empowered to invoke Sec.147 if he has reason to believe that the income chargeable to tax escaped assessment. Further stating that Sec.147 empowers AO to assess or re-assess, however does not contemplate the stages under which such assessment or re-assessment can be made.
8. **Cairn India Ltd [TS-865-HC-2021(MAD)]**-The Madras HC dismisses writ petition preferred by Cairn India Ltd. challenging reassessment proceedings and rules that reasons furnished in Assessee's case to be sufficient for the purpose of reopening of assessment. For the year under consideration, Assessee claimed deduction towards exploration and depletion in its computation which contradicted with the expenditure booked in the financials and no separate details for the expenditure was available. The assessee was also in receipt of a surplus being carrying value due to assignment of a portion of participating interest in Block/Oil & Gas Field which was netted off against Depletion & Cost Written Off which as per the reasons to believe was taxable u/s 42(2)(b). Assessee contended that there was no failure in making full and true disclosure and relied on the Delhi HC ruling in Asoke Kumar Sen to submit that 'reasons to believe' are not preliminary but subject to judicial review. HC on perusal of reasons for re-opening of assessment notes a finding that Assessee's submission was incorrect and misleading, and its case fell under proviso to Section 147 as the conditions requiring full and true disclosure were not satisfied.
9. **Dongfang Electric Corporation Ltd [TS-856-HC-2021(TEL)]**-The Telangana HC allows writ petition and holds Assessee to be eligible under VsV Act where no objections were filed against the draft assessment order (DAO) before the DRP and the final order was also not appealed against. The Assessee, pursuant to reassessment proceedings, was served a DAO against which no objections were preferred before DRP and the Revenue passed the final order confirming the proposals in the DAO on Feb 10, 2020 against which it was open to the Assessee to file an appeal up to Mar 11, 2020 whereas Assessee opted for settlement of the dispute and filed a declaration under the VsV Act on Mar 31, 2021. Revenue rejected Assessee's application on the grounds that since no appeal was filed against the final order before the CIT(A), it implied that Assessee was not waiting on the 'specified date' i.e., Jan 31, 2020 for the final order. Assessee preferred a writ petition against rejection of Assessee's declaration under VsV Act and the HC observes that the main issue under challenge was of the eligibility for availing the benefit of the VsV Scheme and rejects Revenue's contentions that only when a person files objections before the DRP u/s 144C and no directions are issued before the 'specified date' then would such person be the eligible 'appellant' under the VsV Act and not otherwise.
10. **Uday Desai HUF [TS-836-HC-2021(BOM)]**-The Bombay HC sets aside faceless assessment order for de novo consideration due to insufficient response time and disregard of Assessee's request for adjournment. The Assessee received SCN cum draft assessment order for AY 2018-19 on April 16, 2021 granting response time up to April 19, 2021 in response to which Assessee sought adjournment initially up to May 18, 2021. The Revenue passed the final assessment order on May 26, 2021 as per the draft order disregarding Assessee's request for adjournment. The Assessee thus preferred a writ petition against the

faceless assessment order and the HC finds Revenue's assertion that it waited for a month before passing the final order to be incorrect basis order sheet details which depicted that draft assessment order was sent to ReAC for approval on April 19, 2021 itself followed by filing of review report and its endorsement, and generation of final order by April 23, 2021 which was approved on May 25, 2021. The HC holds that the time granted in the show cause notice of only one day as noted earlier certainly cannot be accepted as sufficient time for petitioner to respond". HC directs Revenue to pass assessment order after granting opportunity of personal hearing.

11. **Akash Fertility Centre & Hospital [TS-841-HC-2021(MAD)]**-The Madras HC restores the common order passed by the ITSC. The Revenue had filed writ petitions challenging the common order passed by ITSC which were allowed by the Single Judge Bench on the basis that Assessee did not maintain proper books of account which was sufficient to conclude that an application u/s 245C was without full and true disclosure of income. The HC holds that the observation of the Single Judge in the common impugned order is that there was no clear finding rendered by ITSC and that the applications filed by the Assessee lacked full and true disclosure of income as incorrect. The HC observes that the proper method of reading common order by ITSC is to read the order in its entirety, and non-maintenance of books of accounts was precisely the reason for Assessee to approach ITSC.
12. **Orchid Pharma Limited [TS-842-HC-2021(MAD)]**-The Madras HC dismisses Assessee's writ petition challenging Settlement Commission's order with respect to one TP issue and clarifies that assessee cannot selectively accept the majority portion of the order passed and dissect one issue which was not decided in its favour. It also notes that assessee had filed this writ challenging Income-tax Settlement Commission order w.r.t TP issue of selection of tested party only which was not in Assessee's favour; Further notes that Settlement Commission passed a detailed order on 27 other issues which were passed in Assessee's favour and the same was accepted by the assessee. The HC states that the assessee cannot selectively accept the majority portion of the order passed by the Settlement Commission and dissect one issue, which was not considered to the expectation of the petitioner.
13. **Edelweiss Asset Reconstruction Company Limited [TS-820-HC-2021(KAR)]**-The Karnataka HC allows Petitioner's writ petition seeking information/documents from the Revenue which were considered for passing the provisional attachment order in case of the assessee where the Petitioner was the pledgee of shares. The court rejects revenue's contention that Petitioner being a third person was not entitled to receive the information. It observes that it is undisputed that the statutory scheme provides for grant of information subject to privacy issue and holds that the person holding pledge of shares is not a third person and "privacy issues of the assessee" is no bar where information is sought as per the prescribed procedure.
14. **Palak Khatusja [TS-816-HC-2021(CHAT)]**-The Chhattisgarh HC dismisses writ petitions against reassessment notices issued under the old regime and holds that by extension notification issued by CBDT that the individual identity of Section 148, which was prevailing prior to amendment and insertion of section 148A was insulated and saved up till 30.06.2021.
15. **Raghavendra Enterprises [TS-813-HC-2021(KAR)]**-The Karnataka HC quashes provisional attachment orders holding that the prerequisites of Section 281-B were not satisfied by the Revenue, assessee was subjected to search consequent to which assessment proceedings u/s 153A were initiated. During the course of assessment, Revenue ordered provisional attachment of assessee fixed deposits u/s 281B. The assessee contended that the revenue had not recorded any satisfaction nor provided any cogent reasons to substantiate the passing of provisional attachment orders. The HC finds that Revenue had passed the provisional attachment orders for protecting its interest based on a likelihood of large tax payments being raised after assessment and notes mandatory requirements elucidated were not complied with prior to passing of the orders and thus, quashes the orders.
16. **Lam Research (India) Pvt.Ltd [TS-879-ITAT-2021(Bang)]**-The Bangalore ITAT dismisses the Assessee's appeal and upholds the DRP's order rejecting Assessee's objections in limine - objections were filed against draft assessment order beyond 30 days' time limit. It also clarifies that absent DRP directions, assessee has to file appeal against final assessment-order before CIT(A) and not ITAT.

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17. **Infosys BPM Limited [TS-870-ITAT-2021(Bang)]**-The Bangalore ITAT holds assessment order passed on amalgamating company after dissolution to be non-Est and void ab initio. The demerged company filed the return of income with loss which was assessed u/s 143(3) and the Revenue passed the assessment order in the name of demerged company. The demerged co then preferred an appeal with CIT(A) on additions made and during the proceedings and a letter was filed informing about the merger of PFSS and also that all communications and correspondence in future be issued and served on Infosys BPO at its registered office at Bangalore. The assessment order was challenged on the basis that it was passed on the dissolved company and was thus, without jurisdiction, which was not accepted by the CIT(A) on the ground that the merged entity did not inform the Revenue about the fact that it ceased to exist. On examination of provisions related to amalgamation holds assessment made and the order passed on the amalgamating company i.e., predecessor when the said company is dissolved / not in existence is a nullity, and the impugned assessment order is non-Est, void ab initio and annulled.

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