Newsletter - September, 2020

GBCA & Associates LLP
Chartered Accountants

SEPTEMBER, 2020

Dear Readers,

A false sense of normalcy has returned last month which has taken its toll on the number of cases of Covid-19 in India. As we have opened up, owing to economic hardships and realities and also since we need to really learn to live with the virus, a lot of us have put caution to the wind and with the advent of festivities in August / September, the virus has spread virulently and has unfortunately resulted in the death for some of us, especially the ones who had other ailments.

Learning to live with Corona Virus is to ensure that we can resume our operations and get back to normalcy, while still being cautious and maintaining all required precautions.

The world is undergoing its second spike in the cases while India has not seen peak yet. We are fortunate that medical science is able to protect us a lot better now. While we wait patiently for a vaccine we should not forget that present day treatments were not available a few decades ago and the same virus would have resulted in a lot more deaths.

For most of us, we have had our share of challenges during this period but have come out largely unscathed for which we should be humbly grateful.

Cross border tensions continue to escalate; however, the hope is that our aggressors realize the futility of larger scale engagement. We should also be grateful towards our armed forces as they serve us and the nation selflessly in these difficult times when their families must be battling with the spread of corona virus.

A number of us have used this period as a spring board to venture into newer areas for our businesses and professions. This is the indomitable human spirit which makes one exceedingly hopeful that Covid-19 will be recognized as a period of heightened innovation.

On this optimistic note, we should pledge to maintain our civility while we express our differences and build greater solidarity.

Regards,
Dinesh D. Ghalla

DIRECT TAX

DEDUCTION OF TAX AT SOURCE ON DIVIDEND

India has reintroduced the classical system of taxing dividend income in the hands of shareholders by abolishing DDT through Finance Act 2020. As a result, the dividend received on equity shares and mutual funds which were earlier exempt is now taxable in the hands of the shareholder. Companies have to ensure appropriate deduction of TDS and compliance while making payment to both resident and non-residents failing which there can be adverse tax and penal consequences.

To know more about TDS implications on dividend and compliance requirements please click here.

SLUMP SALE VS. SLUMP EXCHANGE - MADRAS HIGH COURT

Recently, the High Court of Madras in the case of Areva T & D (I) Ltd (Assessee) held that the transfer of business in exchange of issuance and allotment of equity shares under a court approved scheme of arrangement is not slump sale chargeable to tax under section 50B of the Income Tax Act, 1961 ("the Act") as it is not a "contractual transfer" but statutorily approved transfer and cannot be brought within definition of word "sale". Monetary consideration is a must for a sale to be considered as a slump sale.

To know more, click here.

TCS ON SALE OF GOOD EXCEEDING RS. 50 LAKHS WEF 01 OCTOBER 2020

On 07 September 2020, we had circulated a brief note on the new provisions of Tax collection at source (TCS) which is applicable from 01 October 2020 for certain sellers having turnover more than Rs 10 Crores. On 29 September 2020, the CBDT has issued a Circular in respect of the uncertainties (as stated by us in the earlier note) with regards to applicability of TCS on amounts standing as trade receivables in the books of accounts as on 30/09/2020 and whether to include GST component while calculating TCS.

To know more about the new TCS provision, please click here.

EXTENSION OF DUE DATE

CBDT in exercise of powers conferred under section 119(2)(a) of the Income-tax act, 1961 has further extended the due date for filing the belated and revised returns for the A.Y 2019-20 from 30 September 2020 to 30 November 2020.

INDIRECT TAX (GST)

INTEREST ON DELAY GST PAYMENT

The government amended Section 50 of the CGST Act in 2019 to clarify that interest would apply on a net basis. However, it did not clarify whether the change would apply on a prospectively or retrospective basis. This ambiguity has now been removed.

The council's decision with the help of notification and press release in the month of August 2020 to impose interest liability on net basis retrospectively is a panacea for Indian companies with significant input tax credits which will provide relief to taxpayers and bolster taxpayer's confidence. The proposed changes came at a time businesses are grappling with a slowing economy.

To know more, please click here.

FEMA AND INTERNATIONAL TAX

FOREIGN CURRENCY ACCOUNTS BY PERSONS RESIDENT IN INDIA

Cross-border transactions, being business or personal, involve payment and receipts in foreign exchange across countries and India is a major participant in the international environment. Persons resident in India may require foreign currency at their disposal for various purposes as well as receive foreign currency from overseas sources. Holding and spending of foreign currency is monitored under Foreign Exchange Management Act (FEMA) and its relevant regulations under the said Act. Under FEMA, since there is a cap on retention of foreign currency, RBI has provided flexibility of holding foreign currency in specified bank accounts in India. Notification No. FEMA 10(R)/2015-B prescribes various foreign currency accounts in India and its purposes, operational guidelines, etc and resident persons should be aware about the type of accounts depending on the objective and need. This

Article covers four major types of accounts in detail which are often held, followed by other foreign currency accounts for specified purposes.

To view the note, [click here.]

TCS ON LIBERALISED REMITTANCE SCHEME (LRS) W.E.F. 1st OCTOBER, 2020

Under Liberalised Remittance Scheme (LRS), Resident Individual can freely remit upto USD 2,50,000 per financial year for various purposes such as foreign education, business trips, medical treatment, investment in immovable property & stocks, gifts, maintenance of relatives abroad etc. This facility was introduced by RBI in 2004 in order to regularise the transfer of foreign exchange abroad. Over the years this facility has been increasingly used and to eliminate possible tax evasion and to bring such remittance under the purview of Income Tax Act, Finance Act 2020 introduced Tax Collection at Source (TCS) on LRS. This provision was proposed to be effective from 1st April 2020 however as a part of COVID-19 relief measure, it shall now be applicable from 1st October 2020.

To know more, [click here]

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