

A Monthly E-Newsletter

Vol 01 Issue 03

August 2020

The Bottom Line

WHAT'S INSIDE

Direct Taxes **2**

Indirect Taxes **3**

Corporate & Allied Laws **4**

CFO Watch **5**

M&A **5**

In the News **6**

Glossary **7**

About Us **8**

KEY METRICS

Indices

BSE SENSEX	37,607	7.71%	▲
NSE NIFTY50	11,073	7.49%	▲
NASDAQ Composite	10,745	6.82%	▲
NIKKEI 225	21,710	-2.59%	▼

Currency

USD/INR	74.92	0.83%	▲
EURO/INR	88.25	-3.99%	▼
GBP/INR	98.03	-4.64%	▼
JPY/INR	0.71	-1.19%	▼

Note: The month-on-month movement as on July 31, 2020 is represented in percentages
Source: Yahoo Finance, Investing.com



Direct Tax

Notifications/Circulars

ITR filing date for AY 2019-20 extended

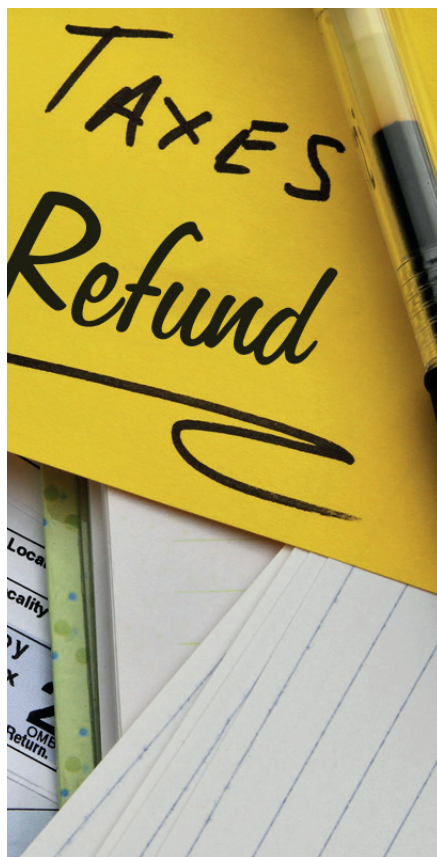
CBDT has further extended the due date of filing of belated / revised return for AY 2019-20 from July 31 to September 30, 2020.

Notification No. 56/2020-CBDT dated July 29, 2020

Relaxation offered for verification of last 5 years 'e-filed' returns

One-time relaxation has been granted by CBDT to verify ITR filed for AY 2015-16 to 2019-20 either by sending a physical copy of the ITR-V to CPC, Bengaluru or through EVC/OTP modes, latest by September 30, 2020. These returns will be processed by December 31, 2020.

Circular No. 13/2020-CBDT dated July 13, 2020



Judicial Rulings

No Permanent Establishment if core activities not performed

The condition precedent for applicability of "fixed place" permanent establishments under DTAA and taxability of profits is that it should be an establishment through which the core business of an enterprise is wholly or partly carried on. The PO, though having a fixed place of business, but carrying out activities of preparatory or auxiliary character would not be a permanent establishment.

Director of Income-tax v. Samsung Heavy Industries Co. Ltd. (Supreme Court)

Refund could not be withheld on account of possible future demands

The Court held that admitted refund amount cannot be retained by revenue authorities on ground that there may be a future demand arising out of pending assessment orders.

Principal Commissioner of Income-tax v. Vodafone Idea Ltd. (Supreme Court)

Disallowance towards non-deduction of tax at source

The Court upheld that disallowance u/s 40(a)(ia) for non-deduction of tax at source is not limited only to the amount outstanding and yet to be paid. The provision equally applies in relation to expenses that had already been incurred and paid by the assessee.

Shree Choudhary Transport Company v. Income-tax Officer (Supreme Court)

Assessment on non-existing entity is void-ab-initio

PO not to constitute Permanent Establishment in absence of core activities

Refund not to be withheld on account of possibility of future demands

Assessment on non-existing entity is void ab initio

Assessment made in the name of amalgamating company was quashed holding the proceedings to be void ab initio. Observed that the AO, at the time of conducting assessment proceedings as well as on the date of passing Assessment Order, was aware that the amalgamating company is no longer in existence. Once it is found that assessment is framed in the name of non-existing entity, it does not remain a procedural irregularity of the nature which could be cured u/s 292B.

Genpact India Pvt. Ltd. Vs. Deputy Commissioner of Income tax (Delhi ITAT)

GAAR cannot be applied retrospectively

ITAT rendered its decision that tax authorities need to follow the directions of scheme of amalgamation as approved by the Hon'ble High Court and that GAAR cannot be applied retrospectively.

JCT Limited Vs. Deputy Commissioner of Income tax (Kolkata ITAT)

Indirect Tax

Notifications/Circulars

E-invoicing mandatory from October 1, 2020

Now e-invoicing shall be mandatory for taxpayers having aggregate turnover exceeding Rs. 5 billion in a financial year. This limit has been increased from earlier notified limit of Rs. 1 billion. SEZ units have been excluded and need not issue e-invoice. The revised format / schema has also been notified.

Notifications No. 60 & 61/2020-Central Tax dated July 30, 2020

Court Cases/Advance Rulings

Deficiency memo cannot be issued beyond statutory timeline

Department cannot issue deficiency memo against a refund application beyond statutory timeline of fifteen days from the date of filing of the refund application by the taxpayer. Refund is to be granted along with interest for delay.

Jian International v. Commissioner of Delhi Goods and Service Tax (Delhi High Court)

Restriction on refund of Input services held ultra vires

CGST Rules which deny the refund of unutilized input tax paid on input services as part of tax credit accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act. Department directed to allow refund of same to the appellant.

VKC Footsteps India Pvt Ltd v Union of India (Gujarat High Court)

Interest on delayed payment is not exempt

While interest is exempt under GST provisions, for an amount to qualify as interest, there must be some specific percentage which is charged on periodic basis. The additional amount being charged on delayed payment is in the nature of penalty which will be regarded as an ancillary supply to the principal supply and shall be taxable under GST.

M/s Ushabala Chits Private Limited (AAR Andhra Pradesh)

Supply from BO in India

Foreign company had entered into a contract with Indian customer for providing maintenance and repairs of machinery. The services were supplied by their Indian BO from a fixed establishment in India. It was held that the location of supplier shall be in India. It will not be considered as an import of service and the recipient will not liable for GST on reverse charge basis. The BO is liable to pay GST on forward charge.

M/s IZ-Kartex named after P G Korobkov Ltd (AAR West Bengal)

Taxability of salary cost of expat employees deputed to project office in India

A PO is an extension of the foreign HO. The employees of HO deputed to PO would also assume employer-employee relationship vis-à-vis the PO. An accounting entry made in the books of PO for salary cost of expat employees will not be considered as a supply being covered under Schedule III of CGST Act.

M/s Hitachi Power Europe GmbH (AAR Maharashtra)

Transfer of unutilized credit

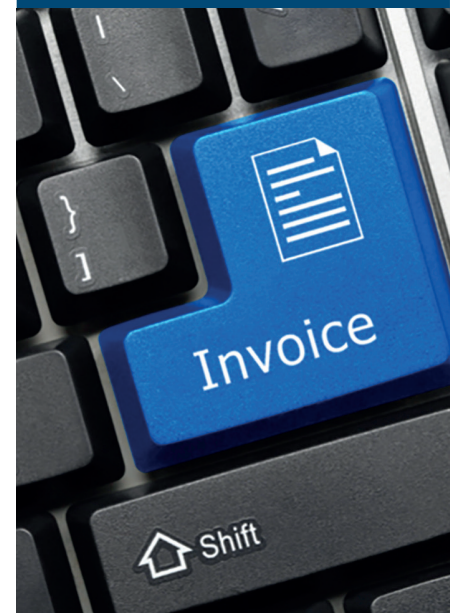
Sale of business as a going concern is a supply of service which is exempt under GST. Even where the transferor and the transferee have the same PAN, the transferor is eligible to transfer unutilized input tax credit lying in his electronic credit ledger to the transferee located in another State by filing Form GST ITC-02.

M/s Shilpa Medicare Limited (AAR Andhra Pradesh)

E-invoicing made applicable where turnover exceeds Rs 5 billion; SEZ units excluded

Restriction on refund of Input services held ultra vires

Deficiency memo for refund claim cannot be issued beyond statutory timelines



CORPORATE & ALLIED LAWS

Deployment of Form PAS-6

Form PAS-6 (Reconciliation of Share Capital Audit Report – half yearly report) now available for filing with effect from July 15, 2020. All unlisted public companies are required to furnish the same within 60 days from the end of each half year (September 30/March 31) duly signed by Practicing Company Secretary / Chartered Accountant.

MCA Announcement

‘Fair Practice Code’ for ARC’s

RBI has issued ‘Fair Practices Code’ for ARC’s to ensure transparency and non-discriminatory practices in acquisition of assets.

RBI Notification No. 13/20-21 dated July 16, 2020

Liquidity Management Report

RBI released an outcome report on Liquidity Management in COVID-19 times in its July 2020 bulletin. The highlights are:

- Government securities market has remained resilient despite increase in government borrowings and significant loss of revenue during lockdown
- Lower financing costs in corporate bonds
- Small and mid-sized corporates, including NBFC’s, benefited through targeted long term repo operations and special refinance facilities provided to AIFIs

RBI Bulletin for July dated July 13, 2020

Extension in timelines under SEBI (LODR Regulations)

Use of digital signature certifications for authentication or certification of filings and submissions made under the SEBI (LODR Regulations) now extended from June 30 till December 31, 2020.

SEBI Circular No. 145/2020 dated July 31, 2020

Audit report required for reconciliation of share capital in case of unlisted public companies

Fair Practice Code issued for ARC’s

Liquidity Management in the times of COVID-19



CFO WATCH

Specified Ind-AS amended, including relating to Leases amid the COVID-19 pandemic

MCA notifies amendments to selected Ind-AS

MCA, in consultation with NFRA, has amended certain Ind-AS by notifying Companies (Indian Accounting Standards) Amendment Rules, 2020. Key amendments are:

- Ind AS 1 & 8: Definition of 'Material' in relation to material information amended making it wider in its connotation
- Ind AS 10: Disclosure requirement brought in for every material non-adjusting event after the reporting period for its nature and estimate of its financial effect, or a statement that such an estimate cannot be made
- Ind AS 103: The definition of 'business' amended and adding optional test to identify concentration of fair value permitting simplified assessment of whether an acquired set of activities and assets is not a business
- Ind AS 107: Disclosure now required for uncertainty arising from Interest Rate Benchmark Reform
- Ind AS 109: Temporary exceptions from applying specific hedge accounting requirements
- Ind AS 116: Clarification given on whether 'rent concessions' to be accounted for as lease modification or not by the lessee

SEBI extends timeline to announce results for period ended June 2020

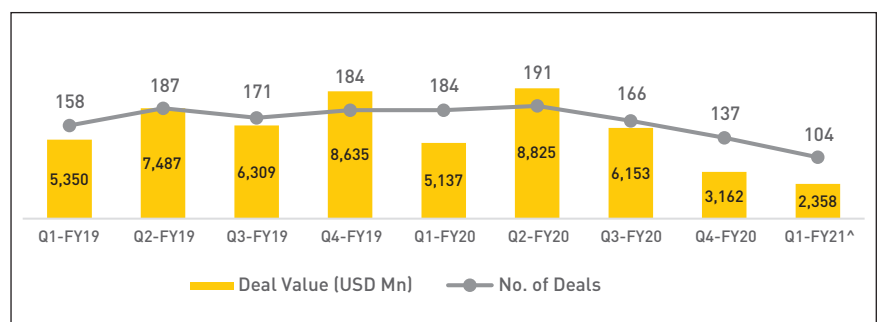
Listed companies may now submit their financial results for the quarter/half year/financial year ended June 30, 2020 till September 15, 2020. Earlier this deadline was August 14, 2020.

MERGERS & ACQUISITIONS

COVID impact on PE/VC investments in India

COVID-19, a stern and sensitive public health emergency, has brought many financial and economic uncertainties for the private equity and venture capital deals. General Partners/ Fund Managers are taking 'wait and watch' approach until they can see some stability in the market and are cautious about forthcoming investment decisions. Amid the pandemic, deals have deferred as investors are waiting to see the extent of damage caused. While the deal pipeline is intact, deal flow is significantly impacted negatively.

Total PE/VC Investments-Quarterly Trend



^Q1-FY21 does not include eight deals of Jio Platforms Ltd. amounting to USD 9,574 Mn, considering it as outlier in current environment Source: CCI Analysis from VCCEdge Data

The plunge in PE/VC deals started in the beginning of Q4-FY20 giving a hit of whopping 173% compared to Q4-FY19 and in the continuing crisis Q1-FY21 further fell by 34% from previous quarter. All these analyses exclude investments raised in Q1-FY21 by Reliance in Jio Platform of close to USD 9.5 billion from various Private Equity players. Total investment raised by Reliance was close to USD 20 bn which includes investment from Google and Facebook.

Investment strategies in near future

- In short run, General Partners are likely to focus on their existing portfolio companies which should take priority over new opportunities.
- Private investors are likely to invest in public equity deals as valuations in public market have corrected significantly and nimble PE funds may be able to bet quickly as quality listed businesses look to shore up cash.
- Exit activity is expected to see significant slowdown until meaningful recovery and fund houses are more likely to hold position for longer period rather than selling at discounted valuations.
- Limited Partners may gravitate towards tried and tested General Partners. First time fund managers and nascent General Partners may face tough time in raising funds.

PE/VC in wait & watch mode and curious to see certainties in uncertain times

IN THE NEWS



Webinars

A webinar for clients was organized by us on **Significant Regulatory Updates** on July 29, 2020 wherein coverage was provided on various regulatory changes in the field of Indirect and Direct Tax, Accounting & Reporting, Corporate and Labour laws applicable from April 1, 2020. The speakers were Sundeep Gupta, Partner, and Subroto Bose, Executive Partner, while Rajiv Arya, National Head, Accounting & Business Support, Indirect Tax set the tone with his opening remarks.

On June 28, 2020, Parveen Kumar, National Head, Assurance was invited by the J.B. Nagar CPE Study Circle of WIRC to make a presentation on Audit standards, where he covered **Key Considerations in Financial Statements**.

On July 25, 2020, Parveen was also invited by CA Parivaar to be one of the speakers on the panel and share his thoughts on **Practical Approach to Forensic Audits**.

Articles by our Partners

The Atmanirbhar Avtaar of Form 26AS – July 1, 2020

Author - Bikramjit Singh Bedi, Partner, Taxation and Jyoti Gupta, Manager, Taxation

Published in Taxmann, this article covered the revised Form 26AS and the additional information that would now be provided to taxpayers

Digital Tax: The Road Ahead - July 22, 2020

Author - Sunil Arora, Partner, Taxation & Co-Practice Head, Mumbai

Published by Business Today, this article is a take on the author's stance on the implications of expanding scope of the Equalisation Levy to the sale of goods and services by overseas e-commerce players

Why CFOs must disclose more in the new normal - July 25, 2020

Author - Keyur Dave, Partner, Practice Head, Mumbai

Published on ET CFO, this article covers the importance and necessity of consistent and comprehensive disclosures by corporates in today's environment.



GLOSSARY



AAR

Authority for Advance Ruling

AIFI's

All India Financial Institutions

AO

Assessing Officer

ARC's

Asset Reconstruction Companies

AY

Assessment Year

BO

Branch Office

CBDT

Central Board of Direct Taxes

CGST

Central Goods and Services Tax

CGST Act

Central Goods and Services Tax Act, 2017

CGST Rules

Central Goods and Services Tax Rules, 2017

DTAA

Double Taxation Avoidance Treaty

FY

Financial Year

GAAR

General Anti Avoidance Rules

GST

Goods and Services Tax

HO

Head Office

IGST

Integrated Goods and Service Tax

ITAT

Income Tax Appellant Tribunal

ITC

Input Tax Credit

ITR

Income Tax Return

LODR

Listing Obligations and Disclosure Requirements Regulations, 2015

MCA

Ministry of Corporate Affairs

NBFC

Non-Banking Financial Company

PE

Private Equity

PO

Project Office

Q

Quarter

RBI

Reserve Bank of India

SCN

Show Cause Notice

SEZ

Special Economic Zone

SGST

State Goods and Services Tax

SIPC

Smart Industrial Port City

TDS

Tax deducted at Source

u/s

Under section

VC

Venture Capital

“ We value your feedback. Please send us your comments and suggestions at editorial@asa.in ”

ABOUT US

A full services firm of corporate strategists, auditors, tax advisory experts and financial and marketing analysts.

SERVICES

- Accounting and Business Support
- Assurance
- Business Advisory
- Taxation
- Transaction Advisory

Well structured teams with domain specialization are guided by leaders who possess expertise and experience and are present PAN India to ensure excellent client service.

Our strengths are our people, processes and professionalism.



PRESENTLY POSITIONED IN THE

TOP 10 ACCOUNTING FIRMS

ASA & ASSOCIATES LLP



New Delhi (Head Office)

Aurobindo Tower
81/1 Third Floor Adchini
Aurobindo Marg
New Delhi 110 017 INDIA
T +91 11 4100 9999

Ahmedabad

306 - B, Pinnacle Business Park
Corporate Road, Prahlad Nagar
Ahmedabad, 380 015 INDIA
T + 91 79 4891 5409

Bengaluru

Level - 2, Park Square
No.150, 36th Cross
Jayanagar 7th Block
Bengaluru 560 082 INDIA
T +91 80 4151 0751

Chennai

Unit No. 709 & 710,
7th Floor 'Beta Wing'
Raheja Towers, New Number 177
Anna Salai, Chennai 600 002 INDIA
T +91 44 4904 8200

Gurgaon

Times Square Fourth Floor
Block B, Sushant Lok 1
Gurgaon 122 002 INDIA
T +91 124 4333 100

Hyderabad

Amaram Unnathasan Reddy Tower
H No 1-11- 301/3 Ground Floor
Gagan Vihar Begumpet
Hyderabad 500 016 INDIA
T +91 40 2776 0423

Kochi

Pioneer Tower
207-208 Second Floor
Marine Drive
Kochi 682 031 INDIA
T +91 484 410 9999

Mumbai

68 Filmcenter
C-34 Third Floor
J Dadaji Road Tardeo
Mumbai 400 034 INDIA
T +91 22 4921 4000

National Affiliates

Chandigarh, Kolkata, Pune,
Visakhapatnam, Nepal

www.asa.in

700 in-house
PROFESSIONALS

6000
CLIENTS

60 +
LOCATIONS

32 PARTNERS
& DIRECTORS

29 YEARS
OF EXPERIENCE

PARTNER LED OFFICES IN 8 KEY LOCATIONS ACROSS INDIA

18 INDIAN LOCATIONS AND 6 FOREIGN DESKS COMBINED WITH INTERNATIONAL AFFILIATIONS ENSURES GLOBAL STANDARDS WITH REGIONAL EXPERTISE



Disclaimer: We have taken all steps to ensure that the information in this document has been obtained from reliable sources and is accurate. However, this document is not intended to give legal, tax, accounting or other professional guidance. We recommend appropriate advice be taken prior to initiating action on specific issues.