

# HARBINGER<sup>TM</sup>

*Updates on regulatory changes affecting your business*

January 2020



## **B D Jokhakar & Co.**

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## INCOME TAX



### Changes in Form ITR 1(Sahaj) and Form ITR 4(Sugam)

As per Notification No. 01/2020/F. No. 370142/32/2019-TPL notified that a person who owns a property in joint ownership was not eligible to file ITR-1 or ITR-4 Forms. Further, a person who is otherwise required to file the Return of Income under section 139(1) of the Income-tax Act, 1961 (the Act) under 7<sup>th</sup> proviso, was also not eligible to file ITR-1 Form. This created a worry of having to file a more detailed ITR, Form 3.

To reduce the above hardship, it has been decided to allow a person, who jointly owns a single house property, to file his/her return of income in ITR-1 or ITR-4 Form, as may be applicable, if he/she meets

the other conditions. It has also been decided to allow a person, who is required to file return due to fulfilment of one or more conditions specified in the seventh proviso to section 139(1) of the Act, to file his/her return in ITR-1 Form.

### CBDT notifies Rule 6BBA and amends Rule 6DD to include new payment method as non-cash payments under Income Tax Act

Earlier, the only methods allowed making non cash payments were account payee cheque drawn on bank and account payee bank draft.

Now, Central Board of Direct Taxes (CBDT), in Rule 6BBA specifies that payments made through following electronic payment modes shall also be considered as non-cash payments under Income Tax Act

- 1) Credit Card
- 2) Debit Card
- 3) Net Banking
- 4) IMPS (Immediate Payment Service)
- 5) UPI (Unified Payment Interface)
- 6) RTGS (Real Time Gross Settlement)
- 7) NEFT (National Electronic Funds Transfer), and

- 8) BHIM (Bharat Interface for Money) Aadhaar Pay.

CBDT, amended Rule 6DD which reduced cash loan acceptance and repayment limit to Rs. 10,000 in aggregate from earlier Rs. 20,000.

**GOODS & SERVICE TAX**



**GSTR-3B returns can be filed in a staggered manner**

GSTR-3B is a monthly self-declaration to be filed by a registered GST dealer along with GSTR 1 and GSTR 2 return forms. It is a simplified return to declare summary GST liabilities for a tax period. Previously, due date for filing GSTR-3B for **ALL** taxpayers was 20<sup>th</sup> of every month.

- As per Press Release dated 22nd January, 2020, GST returns can now be filed in a staggered manner.

Turnover as per previous Financial Year	Earlier Due Date	New Due Date
5 Crore or more	20 <sup>th</sup> of following month	20 <sup>th</sup> of following month
Less than 5 Crore	20 <sup>th</sup> of following month	22 <sup>nd</sup> of following month*
	20 <sup>th</sup> of following month	24 <sup>th</sup> of following month**

\*The mentioned due date is for 15 states/union territories, i.e., Chhattisgarh, Madhya Pradesh, Gujarat, Daman and Diu, Dadra and Nagar Haveli, **Maharashtra**, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Pondicherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh.

\*\* The mentioned due date is for 22 states/union territories other than above.

## Extension in Due Dates for filing GSTR 9 and GSTR 9C for FY 2017-18

The Due Date for filing GSTR 9 & GSTR 9C has been extended in a staggered manner for different groups which previously was 31st January 2020.

**Group 1** contains **Maharashtra**, Karnataka, Goa, Kerala, Tamil Nadu, Pondicherry, Telangana, Andhra Pradesh; Other Territory and due date is extended to 3rd February 2020

While, **Group 2** includes Jammu and Kashmir, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Gujarat and the due date is extended to 5th February 2020

And **Group 3**: Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Andaman & Nicobar Islands, Jharkhand, Odisha, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Lakshadweep, Madhya Pradesh, Uttar Pradesh and the extended due date is 7th February 2020

## MINISTRY OF CORPORATE AFFAIRS



सत्यमेव जयते

Ministry of Corporate Affairs  
Government Of India

### Companies (Compromises, Arrangements & Amalgamations) Amendment Rules 2020

In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, as per notification no F. No. 2/311CAA/2013-CL.V in rule 3, after sub-rule (4), the following sub-rules shall be inserted, namely: - A member of the company shall make an application for arrangement, for the purpose of takeover offer in terms of sub-section (11) of section 230, when such member along with any other member holds not less than **three-fourths** of the shares in the company, and such application has been filed for acquiring any part of the remaining shares of the company. Hereby, "Shares" means the equity shares of the company carrying voting rights, and includes any securities, such as depository receipts, which entitles the holder thereof to exercise voting rights. Nothing in this sub-rule shall apply to any transfer or transmission of shares through a contract, arrangement or

succession, as the case may be, or any transfer made in pursuance of any statutory or regulatory requirement. An application of arrangement for takeover offer shall contain: \_

- (a) the report of a registered valuer disclosing the details of the valuation of the shares proposed to be acquired by the member after taking into account the following factors: -
- (i) the highest price paid by any person or group of persons for acquisition of shares during last twelve months; (ii) the fair price of shares of the company to be determined by the registered valuer after taking into account valuation parameters including return on net worth, book value of shares, earning per share, price earning multiple vis-a-vis the industry average, and such other parameters as are customary for valuation of shares of such companies. (b) Details of a bank account, to be opened separately, by the member wherein a sum of amount not less than one-half of total consideration of the takeover offer is deposited.



## RESERVE BANK OF INDIA



### Amendment to Master Direction (MD) on KYC

Government of India, vide Gazette Notification G.S.R. 582(E) dated August 19, 2019 and Gazette Notification G.S.R. vi. 840(E) dated November 13, 2019, has notified amendment to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005. Further, with a view to leveraging the digital channels for Customer Identification Process (CIP) by Regulated Entities (REs), the Reserve Bank has decided to permit Video based Customer Identification Process (V-CIP) as a consent based alternate method of establishing the customer's identity, for customer onboarding.

A customer, for the purpose of Customer Due Diligence (CDD) process, shall submit:

- i. 1) the Aadhaar number where he is desirous of receiving any benefit or

subsidy under any scheme notified under section 7 of the Aadhaar (Targeted Delivery of Financial and Other subsidies, Benefits and Services) Act, 2016 (18 of 2016); or he decides to submit his Aadhaar number voluntarily to a banking company or any reporting entity notified under first proviso to sub-section (1) of section 11A of the PML Act; or

- ii. 2) the proof of possession of Aadhaar number where offline verification can be carried out; or
- iii. the proof of possession of Aadhaar number where offline verification cannot be carried out or
- iv. 3) any Officially Valid Document (OVD) or the equivalent e-document thereof containing the details of his identity and address; and
- v. 4) the Permanent Account Number or the equivalent e-document thereof or Form No. 60 as defined in Income-tax Rules, 1962; and
- 5) such other documents including in respect of the nature of business and financial status of the client, or the equivalent e-documents thereof as may be required.



## SUMMARY OF IMPORTANT TAX JUDGEMENTS

Unless otherwise stated, the sections mentioned hereunder relate to the Income Tax Act, 1961

Sr No.	Tribunal/Court	Section/Code	Nature	Case Law
1	Bombay High Court	Section 68	<p><b>Bogus share capital:</b> The identity of the investors was not in doubt. The assessee had furnished PAN, copies of the income tax returns of the investors as well as copy of the bank accounts in which the share application money was deposited in order to prove genuineness of the transactions. In so far as credit worthiness of the creditors were concerned, the bank accounts of the investors showed that they had funds to make payments for share application money. The assessee was not required to prove source of the source. Nonetheless, the inquiries through the investigation wing of the department at Kolkata proved source of the source (PCIT vs. NRA Iron &amp; Steel 412 ITR 161 (SC) distinguished)</p>	<p><b>PCIT vs. Ami Industries (India) P Ltd (Bombay High Court)</b></p>
2	Bombay High Court	Section 68	<p><b>Cash Credits:</b> The assessee is only required to explain the source of the credit. There is no requirement under the law to explain the source of the source. The fact that the source of the source is suspect and that the creditor had no regular source of income to justify the advancement of the credit to the assessee does not mean that an addition can be made in the hands of the assessee (Veedhata Tower 403 ITR 415 (Bom) followed)</p>	<p><b>Gaurav Triyugi Singh Vs. ITO (Bombay High Court)</b></p>

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3	ITAT Ranchi	Section 234A, 234B, 56(2)(viib)	The amendment w.e.f AY 2014-15 will not apply to a purchase transaction of immovable property for which full consideration is paid pre the amendment. Mere registration at a later date will not cover a transaction already executed in the earlier years and substantial obligations have already been discharged and a substantive right has accrued to the assessee there from. The Revenue is debarred to cover the transaction where inadequacy in purchase consideration is alleged (ii) Interest u/s 234A is chargeable with reference to the returned income and not the assessed income	<b>Bajrang Lal Naredi vs. ITO (ITAT Ranchi)</b>

## DISCUSSION ON JUDGMENTS - INCOME TAX



### 1. **PCIT vs. Ami Industries (India) P Ltd (Bombay High Court)**

**Bogus share capital:** The identity of the investors was not in doubt. The assessee had furnished PAN, copies of the income tax returns of the investors as well as copy of the bank accounts in which the share application money was deposited in order to prove genuineness of the transactions. In so far credit worthiness of the creditors were concerned, the bank accounts of the investors showed that they had funds to make payments for share application money. The assessee was not required to prove source of the source. Nonetheless, the inquiries through the investigation wing of the department at Kolkata proved source of the source (PCIT vs. NRA Iron & Steel 412 ITR 161 (SC) distinguished)

#### Facts/Observation: -

In NRA Iron & Steel (P) Ltd (supra), the Assessing Officer had made independent and detailed inquiry including survey of the investor companies. The field report revealed that the shareholders were either non-existent or lacked credit-worthiness. It is in these circumstances, Supreme Court held that the onus to establish identity of the investor companies was not discharged by the assessee. The aforesaid decision is, therefore, clearly distinguishable on facts of the present case.

### 2. **Gaurav Triyugi Singh vs. ITO (Bombay High Court)**

**Cash Credits:** The assessee is only required to explain the source of the credit. There is no requirement under the law to explain the source of the source. The fact that the source of the source is suspect and that the creditor had no regular source of income to justify the advancement of the credit to the assessee does not mean that an addition can be made in the hands of the assessee (Veedhata Tower 403 ITR 415 (Bom) followed)

#### Facts/Observation: -

Section 68 of the Act has received considerable attention of the courts. It has been held that it is necessary for an assessee to prove prima facie the transaction which results in a cash credit in his books of account. Such proof would include proof of identity of the creditor, capacity of such creditor to advance the money and lastly, genuineness of the transaction. Thus, in order to establish receipt of

credit in cash, as per requirement of section 68, the assessee has to explain or satisfy three conditions, namely:

- (i) identity of the creditor;
- (ii) genuineness of the transaction; and
- (iii) credit-worthiness of the creditor

### **3. Bajrang Lal Naredi vs. ITO (ITAT Ranchi)**

**The amendment w.e.f AY 2014-15 will not apply to a purchase transaction of immovable property for which full consideration is paid pre the amendment. Mere registration at a later date will not cover a transaction already executed in the earlier years and substantial obligations have already been discharged and a substantive right has accrued to the assessee therefrom. The Revenue is debarred to cover the transaction where inadequacy in purchase consideration is alleged (ii) Interest u/s 234A is chargeable with reference to the returned income and not the assessed income**

### **Facts / Observation: -**

It is not in dispute that purchase transactions of immovable property were carried out in FY 2011-12 for which full consideration was also parted with the seller. Mere registration at later date would not cover a transaction already executed in the earlier years and substantial obligations have already been discharged and a substantive right has accrued to the assessee therefrom. The pre-amended provisions will thus apply and therefore the Revenue is debarred to cover the transactions where inadequacy in purchase consideration is alleged

DATE CHART FOR THE MONTH OF JANUARY, 2020

## January 2020

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
			1	2	3	4
5	6	7	8	9	10 GSTR 7 & GSTR 8	11
12	13 GSTR 6	14	15 Advance Tax Form 24G PF, ESIC	16	17	18
19	20 GSTR 3B & GSTR 5, 5A	21	22	23	24	25
26	27	28	29	30	31 GSTR 9 & 9C for FY 2017- 18	

*This communication is intended to provide general information, guidance on various professional subject matters and should not be regarded as a basis for taking decisions on specific matters. In such instances, separate advice should be taken.*