

# HARBINGER<sup>TM</sup>

*Updates on regulatory changes affecting your business*

April 2019



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## INCOME TAX



### Govt extends deadline for linking PAN with Aadhaar by 6 months

The Central Board of Direct Taxes (CBDT) on 31<sup>st</sup> March, 2019 vide Notification No. 31/2019 extended the last date for intimating the Aadhaar number and linking it with Permanent Account Number (PAN) by six months to **30<sup>th</sup> September, 2019**.

The last date for linking PAN with Aadhaar was 31<sup>st</sup> March, 2019.

However, as per Circular No. 06/2019 dated 31<sup>st</sup> March, 2019; it will be mandatory to quote as well as link Aadhaar number while filing income tax return on or after 1<sup>st</sup> April, 2019.

### CBDT increases tax free gratuity limit from Rs. 10 lakh to Rs. 20 lakh

CBDT vide notification no. 16/2019/F. No. 200/8/2018-ITA-I has increased the maximum amount of gratuity exempt under section 10(10)(iii) of Income Tax Act, 1961 from existing Rs. 10 Lakhs to **Rs, 20 Lakhs**.

Earlier, the Government vide notification S.O. 1420 (E) dated 29.03.2018 had increased the limit of gratuity payable to an employee under section 4(3) of the **Payment of gratuity Act, 1972** from Rs. 10 Lakhs to Rs. 20 Lakhs.

## GOODS & SERVICE TAX



### Decisions taken by GST Council in its 32<sup>nd</sup> meeting to be applicable from 1<sup>st</sup> April, 2019

The GST Council in its 32<sup>nd</sup> meeting held on 10<sup>th</sup> January, 2019, had taken the following decisions which shall be effective from 1<sup>st</sup> April, 2019

1. Exemption from registration would be **Rs. 40 lakhs or 20 lakhs** as may be decided by the respective states, for suppliers of goods.
2. As regards service providers, exemption from registration would continue to be Rs. 20 lakhs. However in case of 'Special Category States', exemption would be Rs. 10 lakhs.
3. Composition Scheme will be available for Suppliers of Services having an Annual Turnover in preceding Financial Year up to Rs 50 lakhs.
4. Composition Scheme will be available for Suppliers of Goods having an Annual Turnover in preceding Financial Year up to Rs 1.5 crores.

## MINISTRY OF CORPORATE AFFAIRS



### **No further extension on last date for transfer of shares held in physical format: SEBI clarifies**

Securities & Exchange Board of India (SEBI) vide a press release dated 27<sup>th</sup> March, 2019 clarified that:

It received representations from shareholders for extension of the date of compliance in view of the same.

It clarified that it's decision does not prohibit the investor from holding the shares in physical form.

Investor has the option of holding shares in physical form even after April 01, 2019.

Any investor who is desirous of transferring shares held in physical form after April 01, 2019 can do so only after the shares are dematerialized.

## RESERVE BANK OF INDIA



### **RBI cuts interest rate by 25 basis points**

The Reserve Bank of India (RBI) has cut the policy interest rate by 25 basis points (bps), making it the second rate cut in 2019.

At 6 % repo rate and inflation of 2.6 %, the real rate of interest in India is still at a high at 3.4 % compared to an average of 2.3 % in 2018.

RBI has been following flexible inflation targeting, with an inflation target of 4 % (upper ceiling of 6 % and lower limit 2 %). With inflation estimated to remain below 4 % in 2019, RBI is focussing on the domestic growth concerns.

Global growth slowdown has further bolstered RBI's rate cut decision.

## 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	ITAT Pune	Section 10(38)	Bogus Capital Gains from Penny Stocks: Though the AO did not find any mistake in the documentation furnished by the assessee, there is need for finding of fact on (i) the nature of the shares transactions; (ii) make-believe nature of paper work; (iii) Camouflage the bogus nature; and, (iv) the relevance of human probabilities etc	Shamim Imtiaz Hingora Vs. ITO
2	Supreme Court	Section 14A, 36(1)(iii)	If the interest free funds available to the assessee are sufficient to meet its investment, it could be presumed that the investments are made from the interest free funds available with the assessee and not from borrowed funds	CIT Vs. Reliance Industries Limited
3	Bombay High Court	Section 68	Bogus Share Capital: Merely because the investment was considerably large and several corporate structures were either created or came into play in routing the investment in the assessee through a Mauritius entity would not be sufficient to brand the transaction as colourable device. The assessee cannot be asked to prove the source of source (PCIT Vs. NRA Iron & Steel 103 TM.com 48 (SC) referred)	PCIT Vs. Aditya Birla Telecom Limited

## DISCUSSION ON JUDGMENTS - INCOME TAX



### 1. Shamim Imtiaz Hingora Vs. ITO

Bogus Capital Gains from Penny Stocks: Though the AO did not find any mistake in the documentation furnished by the assessee, there is need for finding of fact on

- (i) the nature of the shares transactions;
- (ii) make-believe nature of paper work;
- (iii) Camouflage the bogus nature; and,
- (iv) the relevance of human probabilities etc

#### Facts:-

In the present case, it is beyond preponderance of probability that the fantastic sale price of a little known share i.e. Mishka Finance & Trading Ltd. without economic or financial basis, would increase from Rs.0.37/- to Rs.45/- per share. If one considers the fact that the assessee got 24,000/- shares against original 300 shares, the price increase is 120 times within 24 months which is

evident from the fact that by investing Rs.9000/-, the assessee has got Rs.10,19,050/- (in respect of 22,500/- shares only) in a span of 24 months. There is no doubt that the capital gain was manipulated and bogus and was done only to claim exemption U/s 10(38). Once the entire transaction is viewed from the perspective of human probabilities, it definitely fails on all counts.

### 2. CIT Vs. Reliance Industries Limited

If the interest free funds available to the assessee are sufficient to meet its investment, it could be presumed that the investments are made from the interest free funds available with the assessee and not from borrowed funds.

#### Facts:-

The High Court has noted the finding of the Tribunal that the interest free funds available to the assessee were sufficient to meet its investment. Hence, it could be presumed that the investments were made from the interest free funds available with the assessee.

### 3. PCIT Vs. Aditya Birla Telecom

Bogus Share Capital: Merely because the investment was considerably large and several corporate structures were either

created or came into play in routing the investment in the assessee through a Mauritius entity would not be sufficient to brand the transaction as colourable device. The assessee cannot be asked to prove the source of source. (PCIT Vs. NRA Iron & Steel 103 TM.com 48 (SC) referred)

## **Facts:-**

As is well known in the context of Section 68 of the Act, the basic duty would be on the assessee to establish the genuineness of the transaction, credit worthiness of the investor and the source of funds. Equally well settled principle through series of judgments is that the Department cannot insist on the assessee establishing source of the source.

**Note:** The judgments should not be followed without studying the complete facts relevant to the judgment.

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## DATE CHART FOR THE MONTH OF APRIL, 2019

(Compliances are for the previous month unless otherwise stated)

### April 2019

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
	1	2	3	4	5	6
7 Monthly TDS Payment	8	9	10	11 GSTR-1 (T/O>1.5 Crores)	12	13
14	15 1) Provident Fund Payment.  2) ESIC Payment	16	17	18	19	20 GSTR-3B
21	22	23	24	25	26	27
28	29	30 GSTR-1 (T/O<1.5 Crores)				

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