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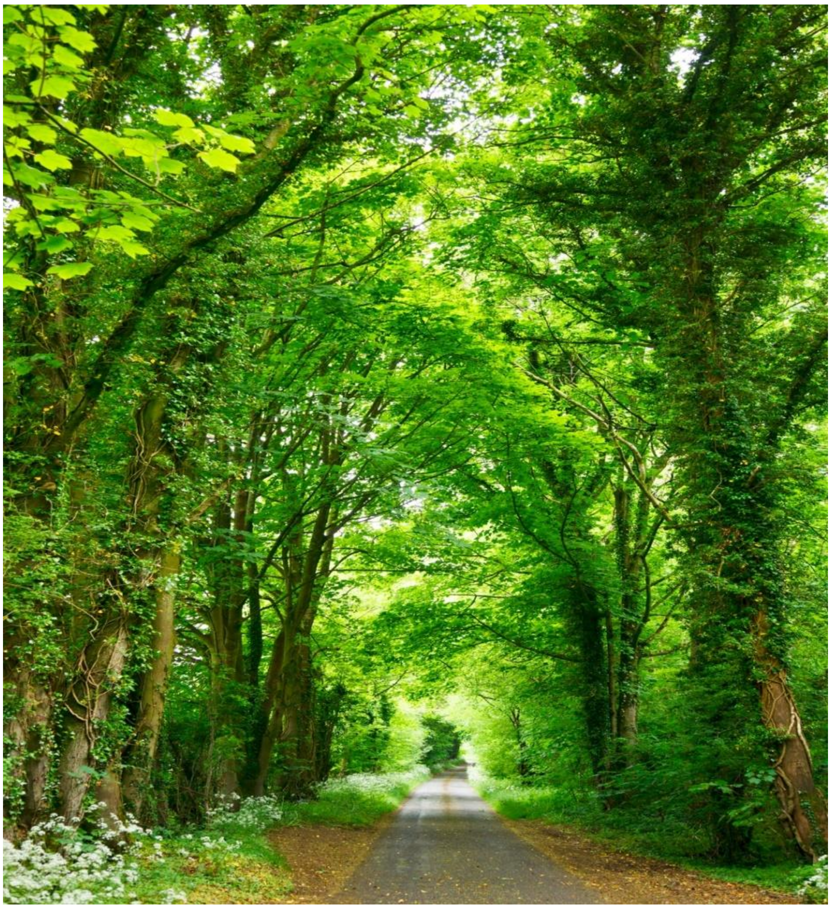
Updates on regulatory changes affecting your business

May 2019



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INDEX

INCOME TAX

CBDT notifies ITR forms for AY 2019-20

The Central Board of Direct Taxes (CBDT) on 1st April, 2019 vide Notification No. 33/2019 has notified the Income-tax Return (ITR) Forms applicable for the Assessment Year 2019-20. These ITR Forms will be applicable for filing of income-tax return in respect of income earned during the previous year 2018-19 (between 01-04-2018 to 31-03-2019). The new forms incorporate the changes made by the Finance Act, 2018 in the Income-tax Act, 1961.

The key changes in new ITR Forms are as follows:-

1. **Mandatory e-filling of ITR for Assessment Year 2019-20 ?**

   For the Assessment Year 2019-20, every taxpayer shall file the income-tax return electronically except a super senior citizen (whose age is 80 years or above during the previous year 2018-19) who furnishes the return either in ITR-1 or ITR-4. The option available to a taxpayer, whose income was below Rs. 5 lakhs during the previous year, to file the physical return has been withdrawn. Thus, it is now mandatory for every taxpayer (except super senior citizen) to file the return only electronically.

2. **Investment in unlisted companies**

   A new table has been inserted in new ITR 2, ITR 3 & ITR 5 to seek the following details in respect of unlisted equity shares held at any time during the previous year by an assessee:

   a) Name of the company.
   b) PAN of the company.
   c) No. and cost of acquisition of shares held at the beginning of the year.
   d) No. of shares, face value, issue price (or purchase price) and date of purchase of shares acquired during the year.
   e) No. and sale consideration of shares transferred during the year.
   f) No. and cost of acquisition of shares held at the end of the previous year.

3. **Section 80TTB deductions to senior citizens**

The Finance Act, 2018 inserted a new section 80TTB to allow deduction of up to Rs. 50,000 to the senior citizen who has earned interest income from deposits with banks or post office or co-operative banks.

Interest earned on saving deposits and fixed deposit, both are eligible for deduction.

To give effect to this amendment, consequent change has been made in new ITR Forms (ITR 1, 2, 3 & 4) wherein a new row is inserted for claiming deduction under section 80TTB.

4. **Reporting of salary income on gross basis**

The new ITR forms have changed the mechanism of reporting of salary income. Up to Assessment Year 2018-19, an individual was required to report salary amount excluding all exempt and non-exempt allowance, perquisites and profit in lieu of salary. These items are reported separately in same schedule and had no impact on calculation of net salary income.

The new ITR forms have changed this reporting mechanism, which is now in sync with the columns of Form 16 (TDS Certificate issued by the employer). Now, from Assessment Year 2019-20, an individual has to mention his gross salary and then the amount of exempt allowances, perquisites and profit in lieu of salary shall be deducted or added to arrive at the taxable figure of salary income.

Further, the new ITR forms seek separate reporting of all deductions allowable under Section 16, namely:

a) Standard deduction
b) Entertainment allowance
c) Professional tax

5. **Buyer's information is required in case of transfer of immovable property**

If assessee reports capital gain, from transfer of an immovable property, in income tax return, it would be mandatory for him to furnish the following information about the buyer:

a) Name of buyer
b) PAN of buyer
c) Percentage share
d) Amount
e) Address of property
f) Pin code

It is mandatory for the assessee to furnish the PAN of buyer in ITR form if tax has been deduced under section 194-IA or PAN is quoted by buyer in the registration documents. PAN is otherwise a mandatory document to buy or sell an immovable property if the stamp duty value or the sales consideration exceeds Rs. 10 lakhs.

6. Schedule P&L has been enlarged to seek more information

In new ITR forms, in place of existing Part A-P&L, following new Parts have been inserted:
a) Manufacturing Account
b) Trading Account
c) Profit & Loss Account

Thus, if assessee is engaged in manufacturing activities then he shall be required to arrive at cost of goods sold through manufacturing account, gross profit through trading account and net profit through profit and loss account. Manufacturing account is not meant for service providers and traders. Hence, they can start directly from trading account.

7. Reporting of disallowance under section 14A

Under new ITR forms (ITR 3, 5 & 6), separate reporting in Schedule-OI (Other Information) is required for disallowance made under Section 14A.

8. Source wise bifurcation of Interest Income

The new ITR forms require separate reporting of interest income from:
a) Saving bank deposits
b) Deposits(i.e., fixed deposits, etc.)
c) Income-tax Refund
d) In the nature of pass through income
e) Others

9. Details of agricultural land to be furnished if agricultural income exceeds Rs. 5 lakhs

Section 10(1) of the Income-tax Act, 1961 exempts the agricultural income from income-tax. Agricultural income exempt from tax is reported in Schedule EI (Exempt Income). The new ITR forms seek following additional details if net agricultural income earned during the year exceeds Rs. 5 lakhs:
a) Name of district (with PIN code) where agricultural land is located
b) Measurement of agricultural land in Acre
c) Whether land is owned or held on lease?
d) Whether land is irrigated or rain-fed?

10. Additional details to be furnished from director of a company

A person who is a director in a company shall not able to use ITR1 and ITR-4 for filing of return of income and he has to use ITR 2 or ITR 3, as the case may be. Further, if an individual was director in a company at any during the previous year, he has to provide the following information:
a) Name of Company
b) PAN
c) Whether shares of the company are listed or unlisted?
d) DIN

11. Residential status

In new ITR forms, besides specifying the residential status as resident, resident but not ordinarily resident or non-resident, the assessee is now required to provide additional information with respect to his residential status, such as, his no. of days stay in India, jurisdiction of his residence and tax identification number in case he is a non-resident.

12. Scope of foreign assets expanded

The Government has expanded the scope of reporting in new ITR forms in respect of foreign asset held by a person. In this respect, following changes have been made in Schedule FA:

a) *Besides foreign bank accounts, details of foreign depository accounts are also required*
Depository accounts are the accounts in which cash or securities are deposited by the accountholder. Earlier only information regarding foreign bank accounts were required to be furnished under ITRs. Now under new ITR forms, information relating to every foreign depository account held by an assessee is required to be reported.

b) *Foreign custodial accounts*
Custodial account is an account which is set up for the benefit of any other person called beneficiary and is managed and administrated by a representative known as a custodian. In the new ITR forms, the assessee is required to furnish various details such as the name and code of the country in which such account is held and account opening date and peak balance during the year, etc.

c) *Foreign equity and debt interest held in any entity*
The new schedule requires the assessee to provide information regarding the investments

made by him in equity or debt funds of a foreign entity. Accordingly, information relating to the entity and investment made therein is required to be reported.

d) *Foreign cash value insurance contract or annuity contract*
Cash value insurance is a particular form of life insurance whereby the premium typically remains same throughout the life of the policy and a portion of that premium goes towards the death benefit while another portion of the premium goes towards a cash account that earns interest for the policy holder. Under new ITR forms, the assessee needs to furnish information regarding details of any foreign cash value insurance contract or annuity contract held by him, such as, name of the financial institution, cash value of the contract and gross amount paid with respect to the contract during the period, etc.

GOODS & SERVICE TAX

CBIC extended the due date for filing Form GSTR-1 for the month of March 2019 till 13th April, 2019

The Central Board of Indirect Taxes and Customs (CBIC) has issued a Notification No. 17/2019 – Central Tax dated 10th April, 2019 which extended the due date for filing the details of outward supply of goods or services or both, in FORM GSTR-1 for those taxpayers having annual aggregate turnover more than Rs. 1.5 crores, for the month of March, 2019 till 13th April, 2019.

CBIC has extended the due date for filing GSTR-3B for the month of March, 2019 to 23rd April, 2019

Central Board of Indirect taxes & Customs (CBIC) on 22nd April, 2019 vide notification no. 19/2019-Central Tax, has extended the due date for filing Form GSTR-3B for the month of March, 2019 to 23rd April, 2019.

This notification shall come into force, with effect from, 20th April, 2019

MINISTRY OF CORPORATE AFFAIRS

Clarification for e-filing of one time return of Outstanding Loan as on 31.3.2019 in e-Form DPT-3

The Ministry of Corporate Affairs (MCA) vide General Circular No. OS/2019 dated 12th April, 2019 clarified that:

As the deployment of e-Form DPT-3 on MCA 21 portal is pending, in order to avoid inconvenience to stakeholders on account of various factors, it is stated that the additional fee, as provided under the Companies (Registration Offices and Fees) Rules, 2014, shall be levied after 30 days from the date of deployment of the e-Form DPT- 3 on MCA 21 portal.

RESERVE BANK OF INDIA

RBI to buy Rs 25,000 crore of bonds via Open Market Operations in May-2019

The Reserve Bank of India (RBI) plans to buy Rs 25,000 crore worth of bonds in two instalments from the secondary market in May, it has notified.

The first such open market operations (OMO) for the fiscal year 2019-20, amounting to Rs 12,500 crore, will happen on May 2. The date for the second auction has not been given.

This would be on top of the dollar swaps that the central bank is undertaking. The system liquidity was short of Rs 1.4 trillion as on Monday. This is despite the central bank buying bonds worth Rs 3 trillion in the last fiscal year and infusing another about Rs 70,000 crore through two dollar swaps.

The OMO plan is in continuation with the central bank's practice in the last financial year. The RBI had spelt out how much of bonds it would purchase from the market through monthly calendars. In the OMO, the central bank would be buying bonds maturing between 2020 and 2032, it said in its notification.

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 50C	The assessee cannot avoid the impact of Section 50C by claiming that his Section 54EC investment is large enough to cover the deemed consideration based on stamp duty valuation. Such interpretation renders Section 50C redundant.	Jagdish C. Dhabalia Vs. ITO
2	ITAT Kolkata	Section 68	The judgement in PCIT vs. NRA Iron & Steel 103 TM.com 48 (SC) is distinguishable on facts & does not apply to a case where the assessee has discharged its onus to prove the identity, creditworthiness and genuineness of the share applicants by producing the PAN details, bank account statements, audited financial statements and Income Tax acknowledgments and the investors have shown the source of source & personally appeared before the AO in response to s. 131 summons.	Baba Bhootnath Trade & Commerce Ltd. Vs. ITO
3	Bombay High Court	Section 68 & 69	Even if the purchases are bogus, the entire purchase amount cannot be added. As the department had not disputed the assessee's sales & there was no discrepancy between the purchases and the sales, the purchases cannot be rejected without disturbing the sales in case of a trader. The addition has to be restricted to the extent of the G.P. rate on purchases at the same rate of other genuine purchases (N.K .Industries 292 CTR 354 (Guj), N. K. Proteins 250 TM 22 (SC) distinguished).	PCIT Vs. Mohommad Haji Adam

4	Bombay High Court	Section 148	As per settled law, notice for reopening of assessment against a dead person is invalid. The fact that the AO was not informed of the death before issue of notice is irrelevant. Consequently, the s. 148 notice is set aside and order of assessment stands annulled (Alamelu Veerappan 257 TM 72 (Mad) followed)	Rupa Shyamsundar Dhumatkar Vs. ACIT

DISCUSSION ON JUDGMENTS – INCOME TAX

1. Jagdish C. Dhabalia Vs. ITO

The assessee cannot avoid the impact of Section 50C by claiming that his Section 54EC investment is large enough to cover the deemed consideration based on stamp duty valuation. Such interpretation renders Section 50C redundant.

Facts:-

The deeming fiction under section 50C of the Act, must be given its full effect and the Court should not allow to boggle the mind while giving full effect to such fiction. We are not opposing the proposition canvassed by the Counsel of the assessee that deeming fiction must be applied in relation to the situation for which it is created. However, while giving full effect to the deeming fiction contained under section 50C of the Act for the purpose of computation of the capital gain under section 48, for which section 50C is specifically enacted, the automatic fallout thereof would be that the computation of the assessee's capital gain and consequently the computation of exemption under section 54EC, shall have to be worked out on the basis of substituted deemed sale consideration of transfer of capital asset in terms of section 50C of the Act.

2. Baba Bhootnath Trade & Commerce Ltd. Vs. ITO

The judgement in PCIT vs. NRA Iron & Steel 103 TM.com 48 (SC) is distinguishable on facts & does not apply to a case where the assessee has discharged its onus to prove the identity, creditworthiness and genuineness of the share applicants by producing the PAN details, bank account statements, audited financial statements and Income Tax acknowledgments and the investors have shown the source of source & personally appeared before the AO in response to s. 131 summons.

Facts:-

The ld DR placed reliance on the recent decision of the Hon'ble Apex Court in the case of Principal CIT vs. NRA Iron & Steel (P) Ltd reported in 103 taxmann.com 48 (SC) wherein the decision on addition made towards cash credit was rendered in favour of the revenue. We have gone through the said judgement and we find in that case, the ld AO had made extensive enquiries and from that he had found that some of the investor companies were non-existent which is not the case before us. Certain investor companies did not produce their bank statements proving the source for making investments in assessee company, which is not the case before us. Source of funds were never established by the investor companies in the case before the Honourable Apex Court, whereas in the instant case, the entire details of source of source were duly furnished by all the respective share subscribing companies before the ld AO in response to summons u/s 131 of the Act by complying with the personal appearance of directors.

3. PCIT Vs. Mohommad Haji Adam

Even if the purchases are bogus, the entire purchase amount cannot be added. As the department had not disputed the assessee's sales & there was no discrepancy between the purchases and the sales, the purchases cannot be rejected without disturbing the sales in case of a trader. The addition has to be restricted to the extent of the G.P. rate on purchases at the same rate of other genuine purchases (N.K .Industries 292 CTR 354 (Guj), N. K. Proteins 250 TM 22 (SC) distinguished)

Facts:-

In the present case, as noted above, the assessee was a trader of fabrics. The A.O. found three entities who were indulging in bogus billing activities. A.O. found that the purchases made by the assessee from these entities were bogus. This being a finding of fact, we have proceeded on such basis. Despite this, the question arises whether the Revenue is correct in contending that the entire purchase amount should be added by way of assessee's additional income or the assessee is correct in contending that such logic cannot be applied. The finding of the CIT(A) and the Tribunal would suggest that the department had not disputed the assessee's sales. There was no discrepancy between the purchases shown by the assessee and the sales declared. That being the position, the Tribunal was correct in coming to the conclusion that the purchases cannot be rejected without disturbing the sales in case of a trader. The Tribunal, therefore, correctly restricted the additions limited to the extent of bringing the G.P. rate on purchases at the same rate of other genuine purchases.

4. Rupa Shyamsundar Dhumatkar Vs. ACIT

As per settled law, notice for reopening of assessment against a dead person is invalid. The fact that the AO was not informed of the death before issue of notice is irrelevant. Consequently, the s. 148 notice is set aside and order of assessment stands annulled (Alamelu Veerappan 257 TM 72 (Mad) followed)

Facts:-

There are several judgments of different High Courts holding that the notice or reopening of assessment is invalid in law. It is not necessary to refer to all the judgments on the point. Suffice it to say, as per the settled law, notice for reopening of assessment against a dead person is invalid.

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

DATE CHART FOR THE MONTH OF MAY, 2019

(Compliances are for the previous month unless otherwise stated)

May 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	31	

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.