

HARBINGERTM

Updates on regulatory changes affecting your business

April 2022



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INCOME TAX



Extension of due date for furnishing return of tax

The Central Board of Direct Taxes (CBDT) vide notification no. 01/2022 in F.NO. 225/49/2021/ITA-II dated 11th January 2022 further extended the date of filing of the income tax return for AY 2021-22 for assessee whose original due date to file return under section 139(1) was 31st October 2021 and 30th November 2021.

Tax on Virtual Digital Assets introduced in Budget 2022

As per Section 115BBH(1), the income arising from the transfer of virtual digital assets shall be taxed at the rate of 30%. Thus, short-term and long-term capital gains both shall be taxed at a flat rate of 30%. Further, no deduction under Chapter VI-A or an exemption under Section 54F shall be allowed from such capital gains. However, relief under Section 87A can be claimed. Also, no set-off provisions or

carry forward allowed for any loss from the transfer of Virtual Digital Asset. Person responsible for making a payment towards the transfer of such Virtual Digital Asset to deduct tax at 1%. Gifting of 'Virtual Digital Asset' covered under section 56(2)(x) on receipt amongst unrelated parties.

Tax at source @ 1% on payment basis or stamp duty value of the immovable property

The Finance Minister proposed that at the time of buying a property, one per cent TDS (Tax Deduction at Source) will apply on a non-agriculture immovable property of over ₹50 lakh on the basis of the sale price or the stamp duty value, whichever is higher, after an amendment in the Income Tax Act.

Finance Minister proposed to cap the surcharge on all Long Term Capital Assets @ 15%.

Surcharge on long term capital gains on all types of assets will be capped at 15%. Earlier, this benefit was available only for listed equity shares and mutual fund units. The benefits will now pertain to unlisted assets also leading to a reduction in tax burden for investors in start-ups, manufacturing, bonds and other types of unlisted assets.

GOODS & SERVICES TAX



[Revision of Limit of Aggregate Turnover For E-Invoice W.E.F. 01.04.2022](#)

CBIC made E-invoice under GST mandatory for registered persons having aggregate turnover above ₹20 crores (earlier Rs 50 crores) in any of the previous years from 2017-18 till 2021-22 with effect from 01st April 2022.

[GSTN enabled the facility for filing LUT for FY 2022-23 on GST Portal](#)

The Goods and Services Tax Network (“GSTN”) has enabled facility for filing Letter of Undertaking (“LUT”) for FY 2022-23 on GST Portal for taxpayers. LUT application is required to be completed before March 31, 2022, or before supply for Exports and SEZ.

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 Bengaluru	S. 2(47)	S. 2(47) Mere agreement to sell the immovable property without possession to buyer, is not "transfer". No capital gain arises in the year in which an agreement to sell is entered into with the buyer without possession being given to the buyer, as there is no "transfer" within the meaning of section 2(47).	Godha Realtors (P.) Ltd. vs. ACIT
2	High Court, Madras	S. 276C	Non-payment of tax in time cannot be treated as a 'willful attempt' to evade tax; no prosecution. Prosecution for 'wilful attempt to evade tax' quashed by HC against a taxpayer who had paid up Rs. 1.95 cr. out of Rs. 2.03 cr. tax dues.	S.P. Velayutham vs. ACIT

DISCUSSION ON JUDGMENTS - INCOME TAX



1. Godha Realtors (P.) Ltd. vs. ACIT (ITAT Bangalore)

Mere agreement to sell the immovable property without possession to buyer, is not "transfer".

No capital gain arises in the year in which an agreement to sell is entered into with the buyer without possession being given to the buyer, as there is no "transfer" within the meaning of section 2(47).

Facts & Observations:

The assessee was a private limited company engaged in real estate development. It won the bid for a property admeasuring 2 acres and 15 gunthas during the year 2008-09. Since the assessee didn't have sufficient funds to satisfy the bid, it approached Shri. Reddy and offered to sell 80% of the undivided share in the auctioned property. Shri Reddy accepted the

offer and paid an amount of Rs. 7.20 crores to the assessee.

AO took the view that the assessee had transferred 80%, i.e., undivided share in the land to Reddy in the previous year relevant to assessment year 2008-09 itself. Accordingly, the capital gain arising on the transfer of 80% of the land is assessable in the hands of the assessee in AY 2008-09.

The assessee contended that it had entered into only an "Agreement to Sell" with Shri. Reddy, and it didn't transfer the title of the land to him.

ITAT held that since there was no extinguishment of any right in the land held by the assessee, the question of assessing any capital gains didn't arise. Thus, the order passed by CIT(A) and AO concerning the computation of capital gain was to be set aside.

2.S.P. Velayutham vs. ACIT (High Court Madras)

Non-payment of tax in time cannot be treated as a 'willful attempt' to evade tax; no prosecution. Prosecution for 'wilful attempt to evade tax' quashed by HC against a taxpayer who had paid up Rs. 1.95 cr. out of Rs. 2.03 cr. tax dues.

Facts & Observations:

The assessee while filing the Return of Income for the AY 2013-14 has shown tax payable of Rs.2,22,23,010/- and paid tax of Rs.10,000,000/- only as self assessment tax. The assessment under

Section 143(3) of the IT Act, 1961 for the AY 2013-14 was completed by accepting the income returned by the assessee vide order dated 31.03.2016. Since the assessee has paid only Rs.10,000,000/- towards undisputed tax and still remaining amount has not been paid, the prosecution u/s 276C(2) has been launched.

The Madras High Court held that there was no intention or wilful attempt made by the Assessee to

evade the payment of tax and the assessee expressed his inability and mere failure to pay a portion of the tax cannot be construed to mean that he has wilfully attempted to evade the payment of tax.

DUE DATE CHART FOR THE MONTH OF APRIL 2022

April 2022

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
				1	2	3
4	5	6	7	8	9	10 1.GSTR 7 2.GSTR 8
11 1.GSTR 1 (Monthly)	12	13 1. GSTR 6 2. GSTR 1 (Quarterly)	14 1. TDS Certificate for TDS deducted u/s. 194IA,194IB,194M of February,2021	15 2. PF & ESI payment due date.	16	17
18 CMP 08	19	20 1.GSTR 5 2.GSTR 5A 3.GSTR 3B if turnover above 5 crores	21	22	23 GSTR 3B if turnover below 5 crores for certain states*	24 GSTR 3B if turnover below 5 crores #
25 ITC-04	26	27	28	29	30 1. TDS Payment for TDS deducted in March, 2022. 2. Due date for filing Form MSME (Half yearly). 6. Due date for filing Professional Tax Monthly Return.	

* It is for Andaman & Nicobar Islands, Andhra Pradesh, Chhattisgarh, Dadra & Nagar Haveli, Gujarat, Goa, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Puducherry, Tamil Nadu and Telangana.

It is for rest of India not included in above.

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.