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Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during March 2023. We had tried to cover all important updates occurred during March 2023 in this volume of newsletter. The sole purpose of this circulation is to update finance professionals and business owners on direct & indirect taxes and other compliances. Feedbacks are welcome at info@nucleusadvisors.in.



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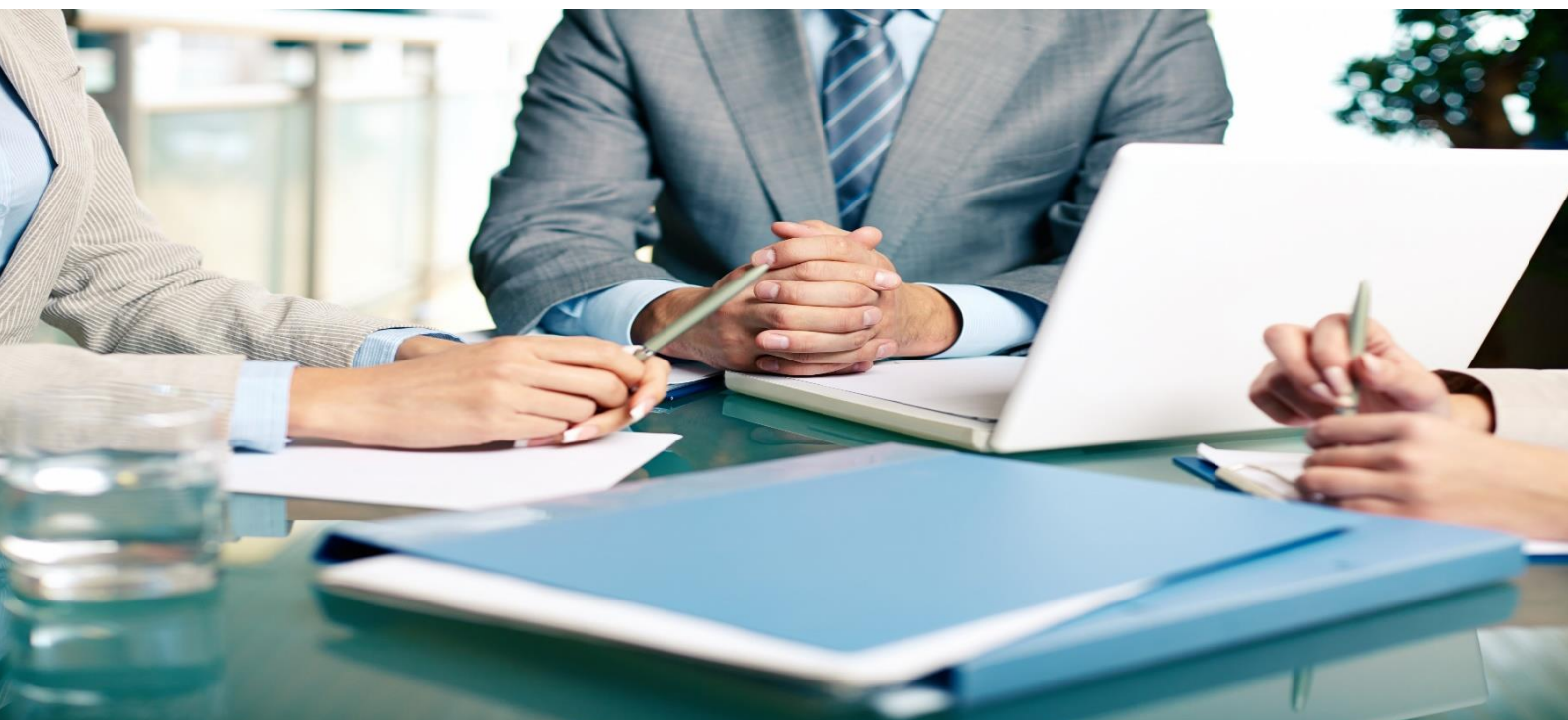
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Compliance Calendar



Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax, MCA, Audit & Assurance notification, circulars and case laws which may directly or indirectly impact our readers. At Nucleus, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.



Direct Tax Updates

- Partial relaxation with respect to electronic submission of Form 10F
- Consequences of PAN becoming inoperative
- Judicial Updates

GST Updates

Notifications Issued

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- Extension of time limit provided in case of not able to apply for revocation within the time limit prescribed- NOTIFICATION No. 03/2023-CentralTax
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- Notification No. 01/2023-Compensation Cess
- Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49th meeting held on February 18, 2023 - Circular No. 191/03/2023-GST

MCA Updates

- MCA issued a direction to the members of ICSI and ICAI to add Membership type

Audit Updates

- MCA Notifies Major Change in Audit Trail Requirements from 1st April 2023



DIRECT TAX UPDATES

Partial relaxation with respect to electronic submission of Form 10F

Non-residents (NR) taxpayers who were not having PAN and not required to have PAN were exempted from mandatory electronic filing of Form 10F till 31st March 2023. This relaxation has now been extended till September 30, 2023. It is stated again that such taxpayers may comply with the law by submitting Form 10F until September 30, 2023 in manual form.

Consequences of PAN becoming inoperative

Following are the consequences of PAN becoming inoperative: -

- refund of any amount of tax or part thereof, due under the provisions of the Act shall not be made to him.
- interest shall not be payable on such refund.
- where tax is deductible under Chapter XVII-B in case of such person, such tax shall be deducted at higher rate, in accordance with the provisions of section 206AA.
- where tax is collectible at source under Chapter XVII-BB in case of such person, such tax shall be collected at higher rate, in accordance with provisions of section 206CC.

These consequences shall take effect from July 01, 2023 and continue till the PAN becomes operative. A fee of one thousand rupees will continue to apply to make the PAN operative by intimating the Aadhaar number.

Judicial Update

Amount received for allowing access to the online database of journals and books not taxable as royalty under the India-USA DTAA - Delhi bench of the Tribunal.

Brief

The Delhi branch of ITAT ruled that, in accordance with Article 12 of the India-USA Double Taxation Avoidance Agreement, the sum received for granting access to the online database of books and journals kept by the appellant cannot be classified as a royalty. (DTAA). The Tribunal pointed out that, in light of the Supreme Court's ruling in the case of Engineering Analysis Centre of Excellence Private Limited, the appellant does not transfer any copyright to the customers by granting access to the online database; rather, it only grants limited rights of access to the database via subscription, which cannot be regarded as royalty. Accordingly, the Tribunal directed to delete the additions made by the Tax Officer.

Facts of the case

The appellant, a tax resident of USA, created a database in relation to healthcare by collating the information available in the public domain. For the purpose of enabling simple access for the customers, the appellant selected such aggregated data from third parties and included it in the database along with analysis, indexing, description, and appending notes. The appellant provided limited access to the contents of the database on a subscription model. Terms of the subscription agreement provide as follows:-

- The customers were not permitted to copy, print, reproduce, modify, translate, adapt or create derivative works based upon the licensed products;
- The customers were prohibited from reverse engineering, decoding, decompiling, disassembling or otherwise attempting to access or derive the source code or structural framework of the licensed products
- All rights, title and interest in and to the licensed products, including all copyright and other intellectual property rights, remain with the appellant
- The appellant is not obligated to update or revise the contents of the licensed products and upon termination, the products are required to be deleted by the licensee from any place of storage

Tribunal's Ruling

- The Tribunal observed that the appellant merely collated the information already available in the public domain and provided it to the customers for easy reference. The appellant was neither the creator of the content, nor did it transfer rights to use any copyright.
- The Tribunal compared the instant case with the provision of access to online databases containing judgements or orders of the courts and held that the provision of the access to such databases would not be covered under the definition of royalty since there is no transfer of right to use of any copyright.
- The Tribunal determined that the Karnataka High Court judgement relied on by the Revenue had been overturned by the Supreme Court in the case of Engineering Analysis Centre of Excellence Private Limited.

Considering the above, the Tribunal held that the amount received by the appellant cannot be considered to be royalty under the India-USA DTAA, and in the absence of any permanent establishment of the appellant in India, the amount cannot be considered to be taxable in India.

Notifications Issued

Late fees Waive off in case of late filing of GSTR-04 Return-

Situation	Late Fees Waived
Registered person fails to file GSTR-4 for the quarter from July 2017 to March 2019 by the due date	Late fees waived in excess of INR 250
Registered person fails to file GSTR-4 for the Financial years from 2019-20 to 2021-22 by the due date	Late fees waived in excess of INR 250
Total amount of central tax payable in the return is nil	Late fees fully waived

Subject to the said return were furnished between the period from the April 01, 2023 to the June 30, 2023.

Extension of time limit provided in case of not able to apply for revocation within the time limit prescribed- NOTIFICATION No. 03/2023-CentralTax

The notification states that the registered person whose registration has been cancelled under Section- 29(2)(b) / (c) on or before the December 31, 2022, and who has failed to apply for revocation of cancellation of such registration within the time limit prescribed under Section-30 the class of such person may follow the underlying process :-

- The registered person may apply for revocation of cancellation of registration up to June 30 , 2023,
- The application for revocation shall be filed only after filing the returns due up to the effective date of cancellation of registration and after payment of any amount due as tax along with any amount due as interest , penalty and late fees,
- No further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Change in procedure for Aadhar Authentication in FORM GST REG-01 Notification No. 04/2023- Central

The amendment has been made in the Notification No. 1/2017-Central Tax (Rate) which are:-

- The notification provides a process for authentication of Aadhaar number for applicants who are not notified under Section-25(6D).
- The applicant needs to undergo Aadhaar authentication while submitting the application.
- The date of authentication of the Aadhaar number or 15 days from the submission of the application, whichever is earlier, shall be considered as the date of submission
- The process of authentication involves biometric-based Aadhaar authentication and taking a photograph of the applicant (if the applicant is an individual) or of such individuals related to the applicant as notified under Section 25(6C) (if the applicant is not an individual).
- The verification of the original copy of the documents uploaded with the application in FORM GST REG-01 must also be done.
- The authentication and verification process must be completed at one of the Facilitation Centers notified by the Commissioner.

NOTIFICATION No. 05/2023- Central Tax

In the said notification, for the words, “provisions of”, the words “proviso to” shall be substituted in the principal Notification No. 27/2022- Central Tax. And the same shall be deemed to be come into force from the 26th day of December,2022.

Extension of time limit to furnish a valid return in case of assessment order issued-NOTIFICATION NO. 06/2023 - CENTRAL TAX

If a registered person fails to file a valid return within 30 days from the service of the assessment order issued on or before February 28, 2023, under section 62(1) of the GST Act, they will be deemed to have withdrawn the assessment order if they follow these procedures:

- The registered person must file the return on or before June 30, 2023.
- The return must be accompanied by the payment of interest and late fees.
- These procedures must be followed, regardless of whether or not an appeal has been filed against the assessment order or whether or not the appeal, if any, filed against the assessment order has been decided.

Late fees Waive off in case of late filing of Annual Return -NOTIFICATION NO. 07/2023 - CENTRAL TAX

Type of Registered Person	Aggregate Turnover	Late Fee Penalty	Maximum Penalty
a) Up to 5 crore rupees	Relevant financial year	INR 25 per day	0.02% of turnover
b) More than 5 crore rupees and up to 20 crore rupees	Relevant financial year	INR 50 per day	0.02% of turnover in the State or Union territory

The notification further provides that if a registered person fails to file the Annual Return by the due date for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21, or 2021-22 but files the return between April 1, 2023, and June 30, 2023, the total amount of late fees waived shall be in excess of INR 10,000.

Late fees Waive off in case of late filing of GSTR-10 Return -NOTIFICATION NO. 08/2023 - CENTRAL TAX

If a registered person fails to file their final return (Form GSTR-10) by the due date, they usually have to pay late fees as per section 47 of the Act. However, if they file the return between April 1, 2023, and June 30, 2023, they will not have to pay the late fees that are more than INR 500.

Extension of issuance of order for wrong tax paid -NOTIFICATION No. 09/2023- Central Tax

The notification states the extension of the time limit specified under Section-73(10) for issuance of order under Section-73(9) of the said act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely: -

- a) For the financial year 2017-18, up to December 31, 2023,
- b) For the financial year 2018-19, up to March 31, 2024,
- c) For the financial year 2019-20, up to June 30, 2024.

Notification No. 01/2023-Compensation Cess

The notification states that, the Central Government hereby appoints the 1st day of April, 2023, as the date on which the provisions of section 163 of the said Act shall come into force.

Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49th meeting held on February 18, 2023 - Circular No. 191/03/2023-GST

The circular states that 5% GST rate shall be levied on Rab, when sold in pre- packaged and labelled, and Nil GST, when sold in other than pre- packaged and labelled.



MCA UPDATES

MCA issued a direction to the members of ICSI and ICAI to add Membership type: -

- All Members of ICSI & ICAI (registered in Professional category at MCA) are requested to add Membership Type (viz Associate or Fellow) in their profile.
- This functionality is also applicable to the users who had associated their Professional Membership Numbers with their ID in past on MCA portal.

MCA Notifies Major Change in Audit Trail Requirements from 1st April 2023

The Ministry of Corporate Affairs (MCA) has made mandatory that any company employing accounting software must utilise software that has the feature of maintaining an audit trail of each transaction and creating an edit log of any modification made in the books of account. The programme must also ensure that the audit trail cannot be disabled/deleted.

These alerts are intended to ensure transparency and accountability in the financial sector. Accounting software with audit trail features can assist avoid financial fraud and guarantee that businesses have correct records.

The Companies (Audit and Auditor) Rules, 2014 (Audit Rules) have been correspondingly amended wherein auditors are now required to report on Other Legal and Regulatory Requirements, as to whether,

- (a) the accounting software used by the company being audited has the feature of recording audit trail (edit logs) facility,
- (b) the audit trail feature was operational throughout the financial year for all the transactions recorded in the year and had not been tampered with and
- (c) such audit trails have been retained for the statutory period for record retention.

With effect from April 1, 2023, stakeholders are asked to move to or guarantee that the company's accounting software meets the above requirements.

COMPLIANCE CALANDER

Direct Taxes

April 07, 2023

- Due date for deposit of Tax deducted by an office of the government for the month of March, 2023.

April 14, 2023

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of February, 2023.

April 30, 2023

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March, 2023 has been paid without the production of a challan.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of March, 2023.
- Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2023
- Due date for deposit of TDS for the period January 2023 to March 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H
- Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2022 to March 31, 2023
- Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2023

Indirect Taxes

April 10, 2023

- Due date for filing of GSTR 7 (Tax Deductor) and GSTR 8 (Tax Collector).

April 11, 2023

- Due date for filing of GSTR 1 for Regular Taxpayers.

April 13, 2023

- Due date for filing of GSTR-6 & GSTR-1 (QRMP Taxpayer)
- Due date for filing of GSTR 5 (Non-Resident Taxable Person).

April 18, 2023

- Due date for filing of CMP-08 for Composition Taxpayers.

April 20, 2023

- Due date for filing of GSTR 3B (Regular Tax Payer)
- Due date for filing of GSTR 5A (Non-Resident OIDAR Service Provider).

April 22, 2023

- Due date for filing of GSTR 3B for taxpayers who opted QRMP Scheme (registered in category X states or UTs)

April 24, 2023

- Due date for filing of GSTR 3B for taxpayers who opted QRMP Scheme (registered in category Y states or UTs)

April 25, 2023

- Due date for filing ITC-04 (Half-yearly/yearly summary of goods sent to or received from a job-worker for those with a turnover more than and up to Rs.5 crore in the previous FY respectively)

April 28, 2023

- Due date for furnishing GSTR-11 (Taxpayers having UIN)

April 30, 2023

- Due date for furnishing GSTR-4 for composition taxpayers.



Do You Know?

State government employees can claim deduction under Section 80CCD (2) for NPS contribution by the employer up to 14 % of their basic salary and dearness allowance. Earlier the limit was 10 % of their basic salary and dearness allowance.

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ABOUT US

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Team Nucleus is comprised of people from Big4s and reputed consulting firms with combined experience of 30+ years. Team is distinguished by their functional and technical expertise combined with their hands-on experience, thereby ensuring that our clients receive the most professional



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