

Nucleus ADVISORS Roundup

September 2023 | F&A | Volume XXXVII



Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during September 2023. We had tried to cover all important updates occurred during September 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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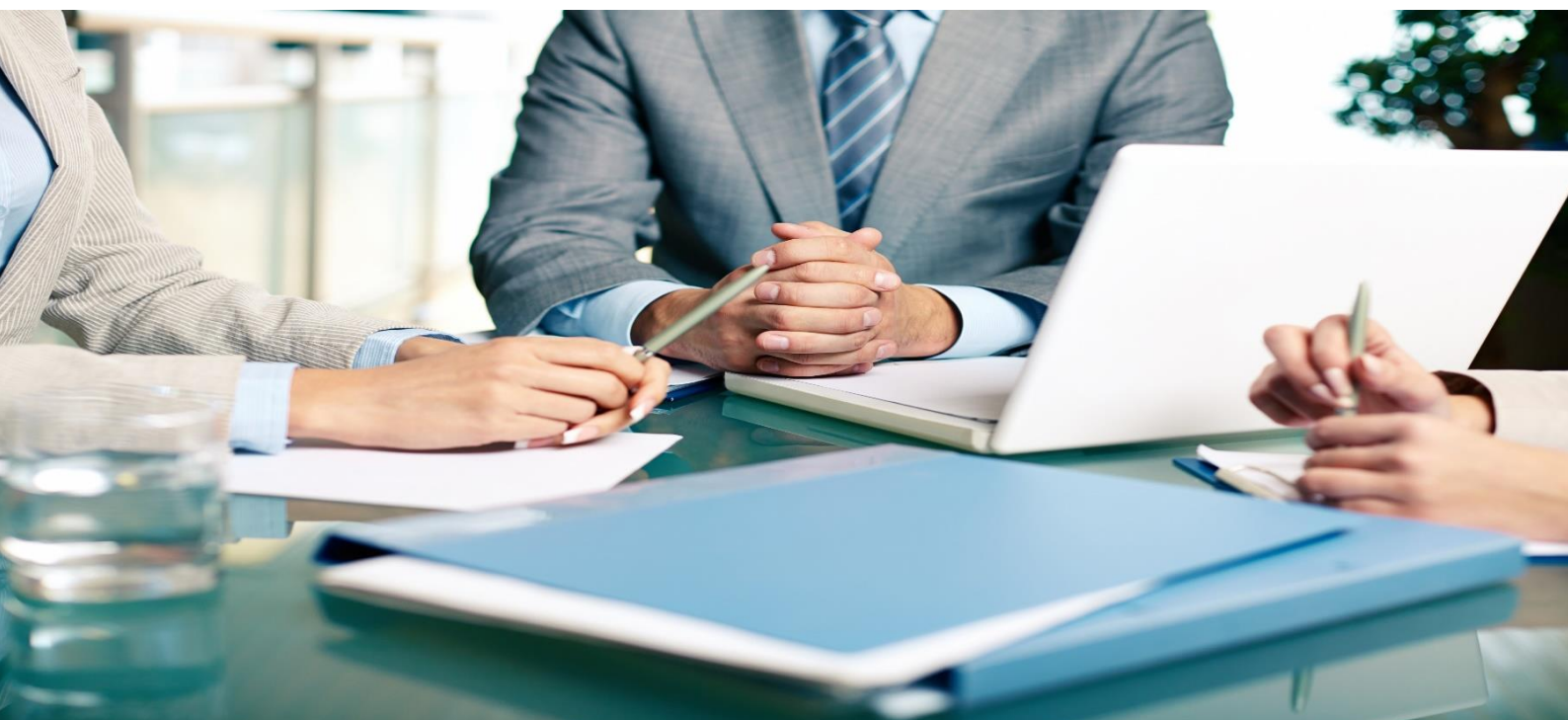
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Why this Volume of Newsletter is important for reader?

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

- Amendment under Rule 11UA : Determination of Fair Market Value
- Classes of NBFC specified for Payment based Deductions
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- Specified “Other Securities” not regarded as Transfer

GST Updates

Notifications Issued

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- Effective date for CGST (Amendment) Act - Notification No. 48/2023 dated September 29, 2023
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- Simplified registration scheme for overseas supplier of online money gaming - Notification No. 4/2023 - Integrated tax dated September 29, 2023

MCA Updates

- Extension of time for holding of Annual General Meeting and Extraordinary General Meetings through Video Conferencing or Other Audio-Visual Means till September 30, 2023



DIRECT TAX UPDATES

➤ Amendment Under Rule “Determination of Fair Market Rule”

According to Income Tax (Twenty first Amendment) Rules, 2023 with reference to sub-clause (i) of clause (a) of the Explanation to clause (viib) of sub-section (2) of section 56 read with section 295 of the Income-tax Act, 1961, It hereby notifies the following rules further to amend, namely:

(1) In the Income-tax Rules, 1962 in rule 11UA, for sub-rule (2), the following sub-rules substituted, namely:

‘(2) Notwithstanding anything contained in sub-clause (b) or sub-clause (c), as the case may be, of clause (c) of sub-rule (1):-

(A) the fair market value of unquoted equity shares for the purposes of sub-clause (i) of clause (a) of the Explanation to clause (viib) of sub-section (2) of section 56 shall be the value, on the valuation date, of such unquoted equity shares, as shall be determined under sub-clause (a), sub-clause (b), sub-clause (c) or subclause (e), at the option of the assessee, where the consideration received by the assessee is from a resident ; and under sub-clauses (a) to (e) at the option of the assessee, where the consideration received by the assessee is from a non-resident, in the following manner:-

(a) the fair market value of unquoted equity shares = $(A-L) \times [PV/PE]$, where,

A = book value of the assets in the balance-sheet as reduced by any amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund under the

Income-tax Act and any amount shown in the balance-sheet as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

L = book value of liabilities shown in the balance-sheet, but not including the following amounts, namely:—

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
- (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- (iv) any amount representing provision for taxation, other than amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities
- (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

PE = total amount of paid up equity share capital as shown in the balance-sheet;

PV = the paid up value of such equity shares; or

(b) the fair market value of the unquoted equity shares determined by a merchant banker as per the Discounted Free Cash Flow method;

(c) where any consideration is received by a venture capital undertaking for issue of unquoted equity shares, from a venture capital fund or a venture capital company or a specified fund, the price of the equity shares corresponding to such consideration may, at the option of such undertaking, be taken as the fair market value of the equity shares to the extent the consideration from such fair market value does not exceed the aggregate consideration that is received from a venture capital fund or a venture capital company or a specified fund :

Provided that the consideration has been received by the undertaking from a venture capital fund or a venture capital company or a specified fund, within a period of ninety days before or after the date of issue of shares which are the subject matter of valuation.

(B) the fair market value of compulsorily convertible preference shares for the purposes of sub-clause (i) of clause (a) of the Explanation to clause (viib) of sub-section (2) of section 56 shall be the value, on the valuation date, as determined-

(i) in accordance with the provisions of sub-clause (b), sub-clause (c), or sub-clause (e) of clause (A), at the option of the assessee, or based on the fair market value of unquoted equity shares determined in accordance with sub-clause (a), sub-clause (b), sub-clause (c), or sub-clause (e) of clause (A), at the option of the assessee, where such consideration is received from a resident; and

(ii) in accordance with the provisions of sub-clauses (b) to (e) of clause (A), at the option of the assessee, or based on the fair market value of unquoted equity shares determined in accordance with sub-clauses (a) to (e) of clause (A), at the option of the assessee, where such consideration is received from a non-resident.

(2) Where the date of valuation report by the merchant banker for the purposes of sub-rule (2) is not more than ninety days prior to the date of issue of shares which are the subject matter of valuation, such date may, at the option of the assessee, be deemed to be the valuation date.

(3) For the purposes of clause (A) or clause (B) of sub-rule (2), where the issue price of the shares exceeds the value of shares as determined in accordance with -

- (i) sub-clause (a) or sub-clause (b) of clause (A), for consideration received from a resident, by an amount not exceeding ten per cent. of the valuation price, the issue price shall be deemed to be the fair market value of such shares;

- (ii) sub-clause (a) or sub-clause (b) or sub-clause (d) of clause (A), for consideration received from a non-resident, by an amount not exceeding ten per cent. of the valuation price, the issue price shall be deemed to be the fair market value of such shares.

➤ **Classes of NBFC Specified for Payment Based Deductions**

Following classes of non-banking financial companies (NBFCs) are specified for the purpose of clause (da) of section 43B of Income-tax Act.

- (a) all NBFCs classified in the Top Layer;
- (b) all NBFCs classified in the Upper Layer;
- (c) all NBFCs classified in the Middle Layer.

Explanation.- The classification of NBFCs in the Top Layer, Upper Layer and Middle Layer shall be according to the Reserve Bank of India's guidelines contained in Circular DOR.CRE.REC.No.60/03.10.001/2021-22 dated October 22, 2021.

➤ **Insertion of Rule 21AHA: Exercise of Option for Specifies Tax Rate on Certain Income**

In the Income-tax Rules, 1962, after rule 21AH, the following rule shall be inserted, namely:--

“21AHA. Exercise of option under sub-section (5) of section 115BAE:

- (1) The option to be exercised in accordance with the provisions of sub-section (5) of section 115BAE by a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall be in Form No. 10-IFA.
- (2) The option in Form No. 10-IFA shall be furnished electronically either under digital signature or electronic verification code.
- (3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall-
 - (i) specify the procedure for filing of Form No. 10-IFA;
 - (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
 - (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.

➤ **Specified “Other Securities” not regarded as Transfer**

It hereby specifies that the following further amendments in the notification vide number S.O. 986(E), dated 5th March, 2020, for sub-clause (d) of clause (viiab) of section 47 of the Act namely:

In the said notification, in the first paragraph, -

- (i) After clause (vi), the following clause shall be inserted, namely: -

“(vii) unit of investment trust;

(viii) unit of a scheme;

(ix) unit of a Exchange Traded Fund launched under International Financial Services Centres Authority (Fund Management) Regulations, 2022,”;

(ii) In the Explanation, after clause (c), the following clause shall be inserted, namely:

“(d) “Investment Trust” shall have the meaning assigned to it in clause (d) of sub-regulation (1) of regulation 83 of the International Financial Services Centres Authority (Fund Management) Regulations, 2022.

(e) “Scheme” shall have the meaning assigned to it in clause (ii) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Fund Management) Regulations, 2022”.

Notifications Issued

Value of Supply in case of Online Gaming - Notification No. 45/2023 dated September 16,2023:

- **Value of supply of online gaming including of online money gaming:** value of supply of online gaming including supply of actionable claims involved, shall be the total amount paid or deposited to supplier, provided any amount returned or refunded shall not be deductible from the value of such supply.
- **Value of supply of actionable claims in case of casino:** Value of supply shall be the total amount paid for purchase of tokens, tickets, chips or coins and participating in any event including games, schemes, competition or any other activities in casino, provided any amount returned or refunded shall not be deductible from the value of such supply.

Effective date for special procedure of manufacturing of goods - Notification No. 47/2023 dated September 25,2023:

The special procedure of registration in case of manufacturing of goods as notified under notification no. 30/2023 dated July 31,2023 shall be effective from January 01,2024.

Effective date for CGST (Amendment) Act - Notification No. 48/2023 dated September 29,2023:

The Provisions of CGST (Amendment) Act, 2023 shall be come into force from October 01,2023.

To exclude specified actionable claims - Notification No. 50/2023 dated September 29,2023:

The registered persons who didn't opt for composition levy, other than registered persons making supply of specified actionable claims as per section 2(102A) of the said act shall furnish the details and returns as per chapter IX.

Notified Rate for specified actionable claims - Notification No. 51/2023 dated September 29,2023:

The government has issued a notification to provide that the actionable claims classified as 'specified actionable claims' under Section 2(102A) of the CGST Act, 2017 would be leviable to GST at the rate of 28% with effect from 01-10-2023. This includes the supply of actionable claims involved in or by way of betting, casinos, gambling, horse racing, lottery, and online money gaming.

It has further been notified that where a word or expression is not defined in the rate notification, notification no. 01/2017- Central Tax (Rate), but the same has been defined in the GST law, the same meaning would be assigned to it for the purpose of the rate notification.

Effective date for IGST (Amendment) Act - Notification No. 2/2023 - integrated tax dated September 29,2023:

The Provisions of IGST (Amendment) Act, 2023 shall be come into force from October 01,2023.

IGST levied on notified supply of online gaming - Notification No. 3/2023 - integrated tax dated September 29,2023:

The Supply of online gaming has been notified, on which integrated tax shall be levied and collected as per section 5(1) effective from October 01,2023.

Simplified registration scheme for overseas supplier of online money gaming - Notification No. 4/2023 - integrated tax dated September 29,2023:

The Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him, empowered to grant registration in case of supply of online money gaming provided or agreed to be provided by a person located in non-taxable territory and received by a person in India.

MCA UPDATES

➤ Extension of time for holding of Annual General Meeting and Extraordinary General Meetings through Video Conferencing or Other Audio-Visual Means till September 30, 2023

The Ministry of Corporate Affairs (MCA) has issued a clarification allowing the conduct of annual general meeting (AGM) and extra ordinary general meetings (EGM) of companies due for the year 2023, through video conference (VC) or other audio-visual means (OAVM) mode till September 30, 2023.

The MCA decided to allow companies whose AGM is due in the year 2023, to conduct their AGM on or before September 30, 2023, in accordance with the requirements laid down in Para 3 and Para 4 of the General Circular dated 05.05.2020.

Para 3 prescribes the requirements to be fulfilled for conduct of AGM by companies through VC or OAVM for companies which are required to provide the facility of e-voting under the Companies Act, 2013.

Para 4 stipulates that all other compliances associated with the provisions relating to general meetings viz. taking of disclosures, inspection of related documents/registers by members, or authorizations for voting by bodies corporate etc. as provided under the Act and the articles of association of the company are made through electronic mode.

In view of the circulars, MCA has simply extended the time for mode of holding of the AGM and EGMs through VC or OAVM. The due date of AGM has not been extended and the AGM would need to be held on or before September 30, 2023.



COMPLIANCE CALENDER

Direct Taxes

October 07, 2023

- Due date for deposit of Tax deducted/collected for the month of September, 2023.
- Due date for deposit of TDS for the period July 2023 to September 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H.

October 15, 2023

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of September, 2023 has been paid without the production of a challan
- Due date for issue of TDS Certificate for tax deducted under section 194-IB, 194-IA, 194M, 194S in the month of August, 2023
- Quarterly statement of TCS deposited for the quarter ending September 30, 2023
- Quarterly TCS certificate in respect of tax collected by any person for the quarter ending June 30, 2023
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of September, 2023
- Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2023
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2023

October 30, 2023

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M & 194S for the month of September, 2023.
- Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2023.

October 31, 2023

- Quarterly statement of TDS deposited for the quarter ending September, 2023.
- Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA).
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September, 2023.
- Audit report under section 44AB for the assessment year 2023-24 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E.
- Furnishing of Audit report in Form no. 10B/10BB by a fund or trust or institution or any university or other educational institution or any hospital or other medical institution or any hospital or other medical institutional.
- Due date for filing of return of income for the assessment year 2023-24 if the assessee (not having any international or specific domestic transactions) is (a) corporate-assessee (b) non-corporate assessee (whose books of accounts are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply.
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.



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ABOUT US

Nucleus AAR Advisors LLP is an Investment Banking and Risk Advisory Firm providing specialized services in the field of Startup Advisory, M&A Advisory, International Taxation, Audit & Assurance. We partner with entrepreneurs in their critical decision making by providing them various analysis customized as per their requirement. We also help in the effective implementation of decisions and its subsequent monitoring as well.

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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