

Nucleus ADVISORS RoundUp

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Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, and Companies Act during October 2021. We had tried to cover all important updates occurred during October 2021 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.



Table of Contents

Page 03

Newsletter Highlights

Page 04 - 05

Direct Tax Updates

Page 06 - 08

GST Updates

Page 08 - 09

MCA Updates

Page 10

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.



NEWSLETTER HIGHLIGHTS

Direct Tax Updates

- ✓ CBDT notifies Income Tax (31st Amendment) Rules, 2021:- Notification No. 118/2021
- ✓ Relaxation of Validation (section 119 of the Finance Act, 2012) Rules, 2021 :- Notification No. 120/2021
- ✓ CBDT exempts certain class of persons from furnishing return of income:- Notification No. 119/2021
- ✓ Deemed arm's length price in case of variation between price determined u/s 92C:- Notification No.124/2021

GST Updates

- ✓ Rate of GST Circular No.:- 163/19/2021-GST.
- ✓ Clarification on Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations.
- ✓ Rate of GST: - Circular No. 164 /20 /2021-GST.
- ✓ Resumption of Blocking of E-Way Bill (EWB) generation facility.
- ✓ Availability of Input Tax Credit (ITC) for FY 2020-21.

MCA Updates

- ✓ MCA has released list of Nidhi companies wherein NDH-4 is already rejected by the Ministry.
- ✓ Waiver of filing fees of LLP-8 till December 30, 2021.
- ✓ Relaxation on levy of additional fees in filing of Annual Return forms for the financial year ended on March 31, 2021

Audit & Assurance Updates

- ✓ Non Compliance with Laws and Regulations (NOCLAR) (Sections 260 and 360) contained in Volume-I of Code of Ethics, 2019 will be effective from April 1, 2022.
- ✓ Key Highlights of amendments in Schedule III





DIRECT TAX UPDATES

CBDT notifies Income Tax (31st Amendment) Rules, 2021:- Notification No. 118/2021

CBDT has notified the Income Tax (31st Amendment) Rules, 2021 which has introduced new Rules 11UE and 11UF.

- **Rule 11UE** - Specified conditions under Explanation to fifth and sixth proviso to Explanation 5 to section 9(1)(i) which states that the declarant shall furnish an undertaking in Form No. 1 and furnish all the attachments required to be furnished under any clause or Part thereof.
- **Rule 11UF** - Manner of furnishing undertaking under Rule 11UE which states that the undertaking in Form No. 1 under sub-rule (1) of rule 11UE shall be submitted by the declarant to the jurisdictional Principal Commissioner or Commissioner within 45 days from the date of commencement of these rules.

The Amendment provides revised Form No. 1 for filing undertaking declaring that specified orders have been passed or made in respect of income accruing or arising through or from the transfer of an asset or a capital asset situated in India in consequence of the transfer of a share or interest in a company or entity registered or incorporated outside India made before the May 28, 2012.

- The interested company will have to submit the undertaking in form 1 within 45 days from the date of commencement of the rules, which is October 1.
- Post that, the tax authority will have 15 days to pass an order and issue a certificate in Form 2.
- From the date of receipt of this form, the entity concerned will have two months to withdraw the litigation(s) and inform the Department via Form 3.
- Based on that, the jurisdictional Principal Commissioner or Commissioner will issue directions in form 4, stating that the tax demand orders shall be deemed to have never been passed. This order will be binding on the Assessing Officer (AO), who will revoke the attachment (if any) and issue a refund within 15 days.

Relaxation of Validation (section 119 of the Finance Act, 2012) Rules, 2021: - Notification No. 120/2021

The Relaxation of validation (section 119 of the Finance Act 2012) Rules, 2021 extends the conditions, form and manner of settling retrospective tax cases notified earlier this month to those cases where the tax demand was validated under a special provision.

There will be conditions prescribing the companies concerned to irrevocably withdraw, discontinue and not pursue any law suits, arbitration, conciliation or mediation, either in India or abroad by either withdrawing or submitting an undertaking to withdraw any law suits, arbitration, conciliation or mediation, if any.

CBDT exempts certain class of persons from furnishing return of income:- Notification No. 119/2021

The Central Government hereby exempts the following class of persons, subject to the conditions from the requirement of furnishing a return of income under sub-section (1) of section 139 of the said Act from assessment year 2021-2022

S.NO.	Class of Persons	Conditions
1	(i) a non-resident, not being a company; or (ii) a foreign company.	(i) The said class of persons does not earn any income in India, during the previous year, other than the income from investment in the specified fund referred to in section 10 (ii) The provisions of section 139A of the Income Tax Act are not applicable to the said class of persons.
2	a non-resident, being an eligible foreign investor.	(i) The said class of persons, during the previous year, has made transaction only in capital asset referred to in clause (viiab) of section 47 of the Income Tax Act, which are listed on a recognised stock exchange located in any International Financial Services Centre and the Consideration on transfer of such capital asset is paid or payable in foreign currency; (ii) The said class of persons does not earn any income in India, during the previous year, other than the income from transfer of capital asset referred to in clause (viiab) of section 47 of the said Act; and (iii) The provisions of section 139A of the Income Tax Act are not applicable to the said class of persons.

Deemed arm's length price in case of variation between price determined u/s 92C:- Notification No.124/2021

Central Government hereby notifies that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed **one per cent** of the latter in respect of wholesale trading and **three per cent** of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2021-2022.

For the purposes of this notification, "wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:

- purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and
- average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.



GST UPDATES

Rate of GST Circular No.:- 163/19/2021-GST

S.No	Description of Goods	Rate of GST	Applicability
1	Fresh fruits and nuts	Exempt from GST	
2	Dried fruit and nuts	Attract GST @5%/12%	
3	Tamarind Seeds classified under heading 1209		
	-Used for Sowing	Nil GST	
	-Used for any purpose other than sowing	Nil GST	for the period July 01, 2017 to September 30, 2021
	-Used for any purpose other than sowing	Attract GST @5%	w.e.f. October 01, 2021
4	Pure henna powder and leaves:		
	-Pure henna powder and henna leaves, having no additives	Attract GST @5%	
	-Mehendi paste in cones	Attract GST @5%	
5	Scented sweet supari & flavored and coated illaichi:		
	-“Betel nut product” known as “Supari”	GST @18%	
	-Cardamom Seeds, Aromatic Spices, Silver Leaf, Saffron, Artificial Sweeteners.	GST @18%	
6	Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues:	GST @5%	
7	Pharmaceutical goods falling under heading 3006	GST @12%	
8	Laboratory reagents and other goods falling under heading 3822	GST @12%	
9	External batteries sold along with UPS Systems/ Inverter:		
	-UPS/Inverters	Under heading 8504	GST @18%
	-External Batteries	Under heading 8507, for all batteries except lithium-ion battery	GST @28%

10	GST rates on Solar PV Power Projects:	GST rates applicable on Solar PV Power Projects or on such Renewable energy Projects on or before January 1, 2019 can be paid in terms of the 70:30 ratio for goods and services respectively. However, it is specified that, no refunds will be granted if GST already paid is more than the amount.	
11	Fibre Drums, whether corrugated or non-corrugated:		
	-Under Heading 4819	GST @18%	w.e.f. October 01, 2021
	-Under Heading 4819	GST @12%/18%	from July 01, 2017 to September 30, 2021

Clarification on Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations

GST Council deliberated upon this issue and a decision was taken that the original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) is sufficient and there is no need for taking a certificate every time on inter-state movement of goods within the same company / stock transfer so long as the goods are the same as those imported by the company at concessional rate.

Rate of GST: - Circular No. 164 /20 /2021-GST

S.No	Description	Rate of GST	Applicability
1	Services by cloud kitchens/central kitchens:	Attract GST @5% (without ITC)	
2	Supply of ice cream by ice cream parlors:	Attract GST @18%	
3	Coaching services supplied by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities'	Exempt from GST	
4	Satellite launch services provided by NSIL:		
a	Outside India	Export of Services and Zero Rated	
b	In India	Taxable	
5	GST on overloading charges at toll plaza:	Exempt Services	
6	Renting of vehicles to State Transport Undertakings and Local Authorities:	Exempt Services	
7	Services by way of grant of mineral exploration and mining rights:	GST @18%	From July 01, 2017 till December 31, 2018
8	Admission to indoor amusement parks having rides etc.:		

a	casino or race club	GST @28%	
b	sporting event like IPL	GST @28%	
c	All other	GST @18%	
9	Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption:	GST @18%	

Resumption of Blocking of E-Way Bill (EWB) generation facility

The blocking of E way bill generation facility had been temporarily suspended by Government on account of Covid pandemic. In terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, the E Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their return in Form GSTR-3B / statement in CMP-08, for consecutive two tax periods or more, whether Monthly or Quarterly.

Availability of Input Tax Credit (ITC) for FY 2020-21

As per Section 16(4) of CGST Act, 2017, no taxpayer shall take input tax credit in respect records (invoices and debit notes) for supply of goods or services (or both) for Financial Year 2020-21 after the due date of furnishing the return for the month of September 2021. The due date for the GSTR-3B for September 2021 is either October 20, 2021 for monthly filers and October 22 & 24, 2021 depending on the State/UT of registration of the taxpayer.

MCA UPDATES

MCA has released list of Nidhi companies wherein NDH-4 is already rejected by the Ministry

- Amended section 406 of the Companies Act and Nidhi Rules requires all Nidhi Companies to apply to the Central Government in eForm NDH - 4 for updation of their status/declaration as Nidhi Company. While examining those applications, the MCA has noticed that those companies are not complying with the applicable provisions of the Act and rules thereunder.
- Further, all the companies functioning as Nidhi company haven't submitted their application within the fixed time frame prescribed under Nidhi Rules and therefore have committed a violation of those rules.
- Till date, MCA has rejected 404 applications filed by such Companies All investors are advised to verify the antecedents/status of such a Company, before becoming its member and take an informed decision before investing in such companies.

Waiver of filing fees of LLP-8 till December 30, 2021

- MCA issued a Circular, in which MCA announced relaxation on additional fees in filing Form 8 by LLP up to December 30, 2021.
- Due to the difficulty faced by LLPs as a result of the COVID-19 epidemic, MCA has received a request for an extension of the deadline for completing the Statement of Account and Solvency without paying additional expenses.
- The MCA has decided to allow LLPs to file Form 8 (the Statement of Account and Solvency) for the Financial Year 2020-2021 without paying additional fees until December 30, 2021, as part of the government's ongoing efforts to promote ease of living and compliance for Micro, Medium and Small Enterprises.

Relaxation on levy of additional fees in filing of Annual Return forms for the financial year ended on March 31, 2021

- Keeping in view of various requests received from stakeholders regarding relaxation on levy of additional fees for annual financial statement filings required to be done for the financial year ended on March 31, 2021, it has been decided that no additional fees shall be levied up to December 31, 2021 for the filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non-XBRL and MGT-7/MGT-7A in respect of the financial year ended on March 31, 2021.
- During the said period, only normal fees shall be payable for the filing of the aforementioned e-forms.
 - Where any Act and all accompanying regulation, guidelines, circulars issued by the regulator from time to time applicable to NBFCs require any specific disclosures to be made in standalone financial statements, the same must be made in addition to the disclosures under this Schedule.
 - The NBFC's preparing the statements as per this Schedule may change the order of presentation of line items on the face of financial statements or the order of line items in the order of liquidity, if appropriate with regard to the operations of the NBFC.
 - The Schedule lays out the minimum requirement for disclosure in the Statement of Changes in Equity for the period, Balance Sheet, Statement of Profit or Loss for the period, and Notes. Cash Flow Statement will be prepared in accordance with the relevant Indian Accounting Standard.



COMPLIANCE CALENDAR

Direct Taxes

November 07, 2021

- Due date for deposit of tax deducted/collected for the month of October 2021. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

November 14, 2021

- Due date for issue of TDS Certificate for tax deducted under section 194-IB, 194-IA and 194M in the month of September, 2021

November 15, 2021

- 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 October, 2021
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of October, 2021 has been paid without the production of a challan
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2021

November 30, 2021

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA 194-IB and 194M in the month of October, 2021
- Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA.
- Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB
- Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2020-21 and of foreign tax deducted or paid on such income in Form no. 67. (if due date of submission of return of income is November 30, 2021)
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.
- Upload the declarations received from recipients in Form No. 15G/15H during the quarter ending June, 2021

November 30, 2021

- Due date for quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending June, 2021

Indirect Taxes

November 10, 2021

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

November 11, 2021

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

November 13, 2021

- Due date for filing of GSTR 6 (ISD)
- Due date for GSTR-1 for QRMP, IFF

November 20, 2021

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

November 25, 2021

- GST Challan Payment if no sufficient ITC for Oct (for all Quarterly Filers)



Do You Know?

The Supreme Court upheld the government's appeal and dismissed a Delhi High Court's May 2020 order that allowed Bharti Airtel to claim Rs 923 Crore as refund of excess Goods and Service Tax (GST) returns filed by the telecom company in July - September 2017. In its order passed today, the Hon'ble Supreme Court has maintained that the company has the freedom to avail the amount of INR 923 crore as input tax credit in the subsequent returns, which the company had duly done.

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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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