



**RNM ALERT**  
**MAY**  
**NEWSLETTER**

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# EDITORIAL

## Dear Readers

During the month of May 2022, Raghu Marwah, CEO RNM India conducted a workshop under the Kashmir Youth Entrepreneurship Program on Scaling Business Ideas: Approaches and Strategies. The workshop was very well attended and the interactive session led to many learnings for all delegates.

The Hon'ble Supreme Court of India has passed three major orders related to tax matters during this past month. The first matter is on the validity of the reassessment notices sent u/s 148 of the Income Tax Act, 1961 after expiry of the prescribed time limit therein. The Hon'ble Court held that the said notices shall be deemed to be issued u/s 148A of the Income Tax Act, 1961 relying upon the powers under Article 142 of the Constitution 'in the interest of justice' to ensure that Revenue is not remediless. Team RNM is of the view that assessee must carefully examine the facts of their case since the Hon'ble Court has issued directions to department to provide sufficient opportunity to taxpayers before proceeding with the reassessment proceedings.

The second Supreme Court judgement was in the matter of M/s Mohit Minerals Pvt Ltd. where the earlier judgement of the Gujrat HC was upheld quashing the levy of IGST under reverse charge on Ocean Freight on transportation of goods by vessel from a place outside India to a place in India. Team RNM welcomes this judgement which puts an end to this litigious matter and Indian importers could evaluate the possibility of filing refund claims if previously paid.

The third Supreme Court judgement was in the matter of M/s Northern Operating Systems Pvt Ltd. where it was held that secondment of employees by Overseas Group Entity to Indian Company was covered under manpower supply service and liable to service tax under reverse charge mechanism. Team RNM is of the view that this judgement may also be applied under the GST regime and therefore a detailed evaluation of secondment arrangements is advisable.

We would like to take this opportunity of wishing our esteemed readers a Happy Summer Vacations with most of you taking a break at some point during the month with your family and loved ones.

Regards,

**CA U N Marwah**  
**Chairman- RNM India**

# Internal Audit



# Importance of Audit Evidence in Auditing

## Introduction:

Auditing is a logical process. An Auditor is called upon to assess the actual situation, review the statement of accounts and give an expert opinion about the truth and fairness of such accounts. This he cannot do unless he has examined the financial statements objectively. Objective examination means critical examination and scrutiny of the accounting statements of the undertaking with a view to assess how far the statements present the actual state of affairs in the correct context and whether they give a true and fair view about the financial results and state of affairs. An opinion founded on the basis of some documents which are not kept for future reference may amount to an opinion formed with a reckless and negligent attitude which might thereby lead to loss of professional standing and prestige. It has also become a universally accepted standard for auditing to collect sufficient, appropriate, competent, and valid evidence before expressing an opinion about the fairness of the financial statements of his client.

## Audit evidence

Audit evidence may be defined as the information used by the auditor in arriving at the conclusion on which the auditor's opinion is based. It includes both information contained in the accounting records underlying the financial statements and other information.

## Importance of Audit Evidence

Audit evidence is important because it is the information that an auditor gathers to form his audit opinion about an organization's financial statements and/or internal control environment.

Audit evidence has assumed much importance in auditing all over the world because not only the shareholders even others place reliance on the audited Financial Statements. Further, Banks, other financial institutions, Government Bodies and the client's management recognize auditor's opinion as true and fair.

**Auditors use a number of audit procedures to obtain audit evidence and they frequently use a combination of audit procedures. These include observation, inspection, confirmation, recalculation, re-performance, and analytical procedures, along with asking questions.**

**An auditor has to collect all the possible audit evidence to establish the truthfulness of the system to record these transactions. An auditor can verify the financial information on the financial statements by reviewing the financial information from the various data sources, including inventory reports, available receipts, and payments to suppliers.**

**An auditor collects audit evidence when he checks the entries in books of accounts with supporting documents attached to the vouchers. He gathers evidence that a transaction actually took place, it was entered into, it was paid/ received, etc. when he verifies the supporting documents. Based on this audit evidence auditor forms his opinion on financial statements (his opinion on books of accounts is expressed in auditors report).**

**Auditor's opinion is based on the audit evidence obtained during the course of audit. Therefore, auditor should verify the transactions and gather audit evidence.**

## **Duty of an Auditor**

**The auditor of a company should make a statement in his report whether he has obtained all the information and explanation, which in his opinion are necessary for the conduct of the audit, and the financial statements give a true and fair view of the state of affairs.**

**It is the duty of an auditor to express his independent opinion on the financial statements furnished to him, the data produced by the accounting system alone (e.g., journals, ledger, manuals, worksheets) are not sufficient to base his opinion.**

**The auditor can form an opinion or come to a conclusion only after verifying all the competent evidences collected by him. This will certainly give him a confidence sufficient enough to enable him to be convinced of the basic truth or falsity of the financial data.**

## Standard of Internal audit - 320 on Audit Evidence

Audit evidence refers to all the information used by the internal auditor in arriving at the conclusion on which the auditor's opinion is based. It includes both information collected from underlying entity records and processes as well as information from the performance of various audit activities and testing procedures.

Gathering appropriate and reliable audit evidence is a critical part of the internal audit process. This standard explains certain key requirements in the process of collection, retention and subsequent review of internal audit evidence.

The Internal auditor shall obtain sufficient and appropriate audit evidence which can form the basis of audit findings and allow reliable conclusions to be drawn from those findings. Evidence collected through various audit procedures shall be complementary and relevant to the objectives of the audit procedure conducted.

The evidence shall be obtained from reliable sources with consistency between various evidence collected.

All audit evidence collected shall be recorded and the internal audit function shall maintain a written process explaining and the manner in which audit evidence is to be gathered, reviewed, documented and stored as per standards of quality and in conformance to the standards on internal audit.

### Conclusion

At last, we can conclude that an audit can be considered as one of the most intriguing highlights within an organizations' fiscal year. As a matter of fact, it can further be seen that numerous different steps and techniques can be utilized in order to approach this process.

The importance of audit evidence lies in the realms of ensuring that there is substantial information on the basis of which subsequent decisions can be based when it comes to audit evidence. In this regard, it is imperative that the audit report that is issued properly reflects groundwork that is covered during the audit process, so that the possibility of unprecedented outcomes can be minimized to a great extent.

The background of the slide is a close-up photograph of fern fronds. The fronds are densely packed and show a color gradient from dark brown to bright yellow, suggesting they are in the process of dying or have been preserved. A semi-transparent green rectangular box is positioned in the upper right quadrant of the image, containing the title text in white.

# Accounting Standard Alert



# Recognition, Measurement, and Presentation of Deferred Tax as per Ind AS 12

## Recognition, Measurement and Presentation of Deferred Tax as per Ind AS 12 As per Ind AS 12, Income Taxes-

Deferred tax liabilities are the amounts of income taxes payable in future periods in respect of taxable temporary differences.

Deferred tax assets are the amounts of income taxes recoverable in future periods in respect of:

- (a) deductible temporary differences;
- (b) the carry forward of unused tax losses; and
- (c) the carry forward of unused tax credits.

The following steps are to be followed in the recognition, measurement, and presentation of Deferred Tax Liabilities or Assets:

### 1. Computation of the carrying amounts of assets & liabilities in the books of accounts

The carrying amount is the amount at which the asset or liability is recognized in the Balance Sheet, after providing necessary adjustments like depreciation, impairment, etc.

### 2. Computation of tax base

The tax base of an asset or liability is the amount attributed to that asset or liability for tax purposes. At the end of the day, all differences between the carrying amount and tax base of an asset or liability are reversed.

Tax base of an asset	Tax base of a liability
<p>The tax base of an asset is the amount that will be deductible for tax purposes against any taxable economic benefits that will flow to an entity when it recovers the carrying amount of the asset.</p> <p>If those economic benefits will not be taxable, the tax base of the asset is equal to its carrying amount.</p>	<p>The tax base of a liability is its carrying amount, less any amount that will be deductible for tax purposes in respect of that liability in future periods.</p> <p>In the case of the revenue that is received in advance, the tax base of the resulting liability is its carrying amount, less any amount of the revenue that will not be taxable in future periods.</p>
<p><b>For Examples:</b></p> <ol style="list-style-type: none"> <li>1. A machine cost Rs. 100. For tax purposes, depreciation of Rs. 30 has already been deducted in the current and prior periods and the remaining cost will be deductible in future periods, either as depreciation or through a deduction on disposal. The tax base of the machine is Rs. 70.</li> <li>2. Trade receivables have a carrying amount of Rs. 100. The related revenue has already been included in taxable profit (tax loss). The tax base of the trade receivables is Rs. 100.</li> </ol>	<p><b>For Examples:</b></p> <ol style="list-style-type: none"> <li>1. Current liabilities include accrued expenses with a carrying amount of Rs. 100. The related expense will be deducted for tax purposes on a cash basis. The tax base of the accrued expenses is nil.</li> <li>2. Current liabilities include interest revenue received in advance, with a carrying amount of Rs. 100. The related interest revenue was taxed on a cash basis. The tax base of the interest received in advance is nil.</li> </ol>

### **3. Computation of temporary differences**

While AS 22, determines the deferred tax on the basis of 'timing difference' & 'permanent difference'. In Ind AS 12, there is only a concept of a temporary difference.

The temporary difference is the difference between the carrying amount of an asset or liability in the balance sheet and its tax base.

### **4. Classification of temporary differences into Taxable temporary difference or Deductible temporary difference**

Temporary Differences are further classified into Taxable Temporary Differences and Deductible Temporary Differences.

Taxable Temporary differences are those temporary differences that will result in taxable amounts in determining taxable profit (tax loss) of future periods when the carrying amount of the asset or liability is recovered or settled.

For example, an entity has an asset that costs Rs. 300 and have a carrying value of Rs. 200. For tax purposes, cumulative depreciation on such asset is Rs. 180 and the tax rate is 30%.

Accordingly, the difference between the carrying value of Rs. 200 and the tax base of Rs. 120 (300 - 180) is the taxable temporary difference of Rs. 80

Deductible temporary differences are those temporary differences that will result in amounts that are deductible in determining taxable profit (tax loss) of future periods when the carrying amount of the asset or liability is recovered or settled.

For example, an entity recognises a liability of Rs. 100 for gratuity and leave encashment expenses by creating a provision for gratuity and leave encashment. For tax purposes, any amount with regard to gratuity and leave encashment will be deductible on payment basis. The tax rate is 25%. The tax base of the liability is nil (carrying amount of Rs. 100, less the amount that will be deductible for tax purposes in respect of that liability in future periods).

In settling the liability for its carrying amount, the entity will reduce its future taxable profit by an amount of Rs. 100 and, consequently, reduce its future tax payments by Rs. 25 (Rs. 100 at 25%).

The difference between the carrying amount of Rs. 100 and the tax base of nil is a deductible temporary difference of Rs. 100. Therefore, the entity recognises a deferred tax asset of Rs. 25 (Rs. 100 at 25%), provided that it is probable that the entity will earn sufficient taxable profit in future periods to benefit from a reduction in tax payments.

## **5. Identification of Exceptions**

The recognition principle of Deferred Tax Assets and Deferred Tax Liabilities in Ind AS 12 are subject to following exception items:

- a) the initial recognition of goodwill arising in a business combination.
- b) the initial recognition of an asset or liability in a transaction which:
  - i. is not a business combination; and
  - ii. at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss)
  - iii. temporary differences associated with investments in subsidiaries, branches and associates, and interests in joint arrangements

## **6. Assessment of deductible temporary differences, tax losses, and tax credits**

Deductible temporary differences reduce the taxable profits of future periods i.e. less future tax payment by a particular amount. However, if there are no tax payments in the future, that means that deductible temporary differences are of no benefit.

Therefore, an entity should recognize deferred tax assets only if it is probable that taxable profits will be available against which the deductible temporary differences can be utilized.

## **7. Determination of tax rate**

Deferred Tax shall be measured:

- i. At the tax rates that are expected to apply to the period when the asset is realized or the liability is settled
- ii. Based on tax rates (and tax laws) that have been enacted or substantively enacted by the end of the reporting period

'Expected to apply' means the tax rates or the tax laws that will apply in the future depend on various factors such as the manner of recovery of asset or settlement of liability.

The measurement of Deferred Tax Liabilities and Deferred Tax Assets shall reflect the tax consequences that would follow from the manner in which the entity expects, at the end of the reporting period, to recover or settle the carrying amount of its assets and liabilities

## **8. Calculation and recognition of deferred tax**

Subsequent to the determination of taxable temporary differences and deductible temporary differences and the applicable tax rates:

- i. Deferred Tax Liability shall be recognized by multiplying the taxable temporary differences with tax rates and
- ii. Deferred Tax Asset shall be recognized by multiplying the deductible temporary differences with tax rates.

## **9. Accounting of deferred tax**

A transaction and the deferred tax effects of a transaction may be accounted for in:

- a) Statement of Profit and Loss.
- b) Outside Profit and Loss account:
  - i. In Other Comprehensive income such as revaluation amount in accordance with Ind AS 16
  - ii. Directly in equity such as correction of an error in accordance with In AS S8.

## **10. Offsetting of deferred tax liabilities and deferred tax assets**

Offset deferred tax assets and deferred tax liability, if and only if:

- a) the entity has a legally enforceable right to set off current tax assets against current tax liabilities; and
- b) the deferred tax assets and the deferred tax liabilities relate to income taxes levied by the same taxation authority on either:
  - i. the same taxable entity; or
  - ii. different taxable entities which intend either to settle current tax liabilities and assets on a net basis or to realize the assets and settle the liabilities simultaneously, in each future period in which significant amounts of deferred tax liabilities or assets are expected to be settled or recovered.

# Direct Tax



## Recent Updates

1. Central Govt. approves 8.10% interest rate on provident fund deposits for the year 2021-2022 The Ministry of Labour and Employment, Government of India has conveyed the approval of the Central Government to credit interest @ 8.10% for the year 2021-22 to the account of each member of the EPF scheme. NOTIFICATION NO. INV-11/2/2021—INV/4670 dated 03.06.2022.

2. CBDT notifies Faceless Penalty (Amendment) Scheme, 2022; omits Regional Faceless Penalty Centres NOTIFICATION NO. S.O. 2425 (E) [NO. 54/2022/F. NO. 370142/51/2020-TPL(PART III)], DATED 27-5-2022.

3. CBDT revises procedures for imposing penalties under Faceless Penalty Scheme 2021 NOTIFICATION NO. S.O. 2426 (E) [NO. 55/2022/F. NO. 370142/51/2020-TPL(PART III)], DATED 27-5-2022.

## Important Judicial Precedents

1. AO can't adjust refund with demand if it is subject matter of appeal and stay of demand has been obtained: HC

[[2022] 138 taxmann.com 441 HC of KARNATAKA \_ GMR Airports Ltd. Vs. Assistant Director of Income-tax]

Where refund adjustment was sought to be made against demand which was subject matter of appeal and had been stayed by virtue of assessee having deposited 20 per cent of tax demand and assessee had made out his objections to notice under section 245,

action of revenue in adjusting refund as regards subject matter of intimation issued under section 245 was to be set aside and matter was to be remanded back for reconsideration of aspect relating to notice under section 245.

2. Reassessment notice if issued on or after 1-4-2021 under unamended section 148, needs to be set aside;

[[2022] 138 taxmann.com 64 (SC) Union of India Vs. Ashish Agarwal]

Section 148A, read with section 148, of the Income-tax Act, 1961 and section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and Article 142 of the Constitution of India, 1950 –

Income escaping assessment - Conducting inquiry, providing opportunity before issue of notice (TLA, 2020) - Assessing Officer issued reassessment notices on or after 1-4-2021 under unamended section 148 by relying on Explanation in Notifications dated 31-3-2021 and 27-4-2021 which extended applicability of aforesaid provision as they stood on 31-3-2021 before commencement of Finance Act, 2021 beyond period of 31-3-2021 - Said reassessment notices were set aside by High Court on ground that reassessment notices issued on or after 1-4-2021 should be governed by substituted sections 147 to 151 which came into effect vide Finance Act, 2021 -

Whether though view taken by High Court was correct, since revenue had made a bona fide mistake, instead of setting aside impugned reassessment notices, the same should be deemed to have been issued under section 148A as substituted by Finance Act, 2021 and were to be treated as show-cause notices in terms of section 148A(b) - Held, yes - Whether in the exercise of its power under Article 142 of Constitution it was also to be held that this order would be applicable PAN INDIA on all judgments and orders passed by different High Courts where similar notices issued after 1-4-2021 under section 148 is set aside.

**3. CIT has no power to examine issues on merits while exercising revisional power under sec. 263: SC**  
[[2022] 138 taxmann.com 332 (SC) CIT, LTU Vs. Nuclear Power Corporation of India Ltd.]

SLP dismissed against High Court ruling that Commissioner was not justified in revising order and directing Assessing Officer to add decommissioning levy, interest on decommissioning fund, interest on R & M fund and interest on R & D fund while computing book profit under section 115JB, particularly when in the order passed by Commissioner, there was no mention as to under which category of Explanations (a) to (k) of section 115JB(2) these four items would fall.

**4.No additions u/s 56(2)(viib) if shares were issued to NR partner as per joint ventures agreement: ITAT**

[2022] 139 taxmann.com 94 (Delhi - Trib.) \_\_DCIT Vs. Mais India Medical Devices (P.) Ltd.

Assessee company was incorporated on basis of joint venture agreement between a resident company and a non-resident company - Both joint venture partners agreed to contribute project cost in ratio of 60 per cent by non-resident and 40 per cent by resident -

Assessee issued shares at Rs. 60 per share to non-resident shareholder while shares to resident company were issued at Rs. 40 per share - AO rejected valuation of shares in case of non-resident for reason that shares issued to resident company was at much below price than shares were allotted to non-resident company - AO also observed that there was loss in previous assessment years, therefore, value determined by DCF Method was not correct - Accordingly, he made addition in hands of assessee under section 56(2)(viib) - It was noted that AO had fallen in error in not considering objectively facts and circumstances of case as reflected in joint ventures agreement between resident and non-resident entity which showed that project costs of assessee was to be funded in ratio of non-resident entity paying 40 per cent of project cost and resident entity paying 60 per cent of project cost - Thus, in furtherance of these clauses of joint ventures agreement there was difference in share price as issued to resident company and to non-resident company



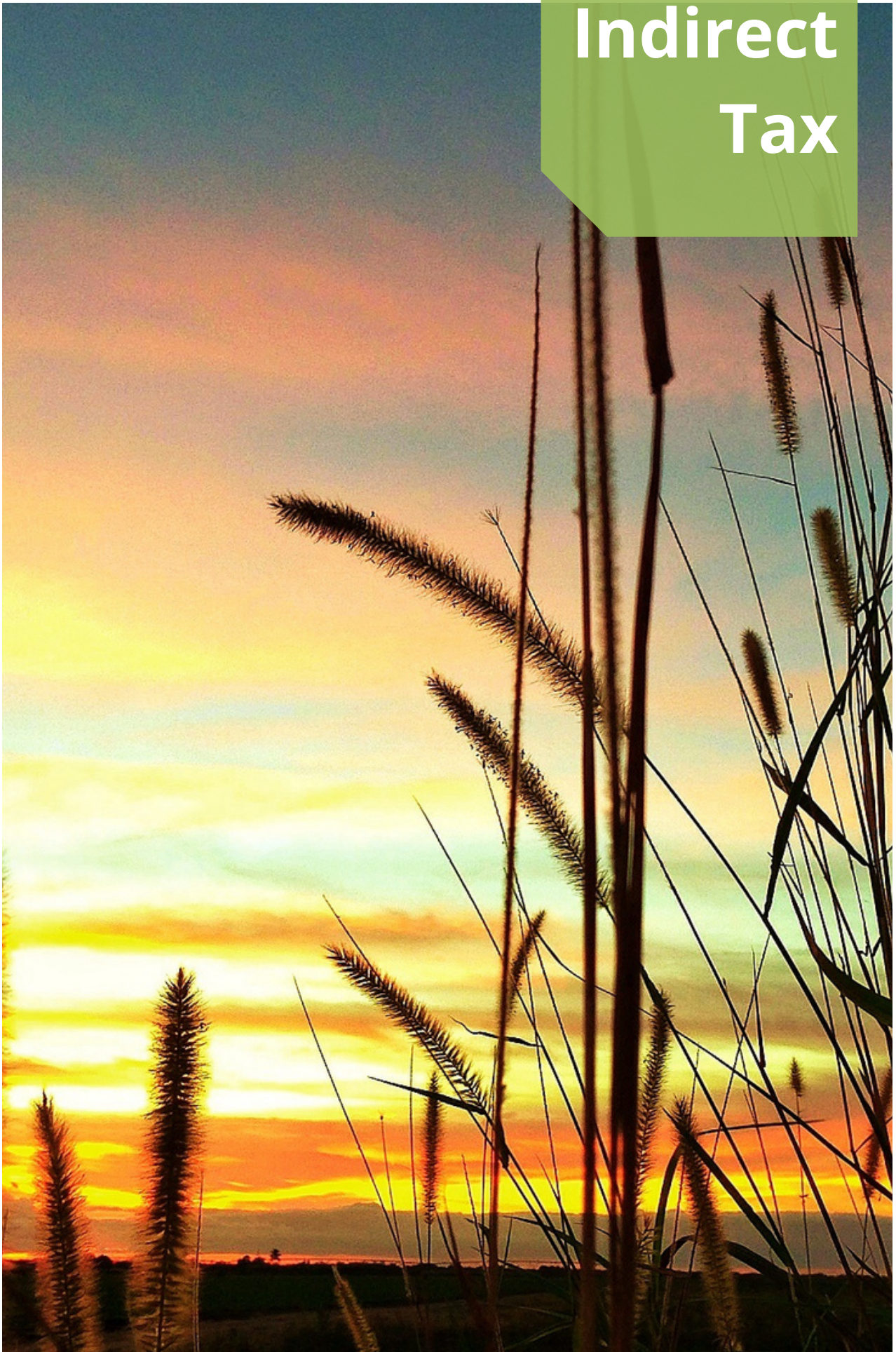
- Difference in amount had occurred due to difference in shares of capital contribution to project cost - Whether, on facts, Assessing Officer was unjustified in rejecting valuation of shares in case of non-resident shareholders by the assessee and to re-determine value of such shares.

**5.NLCT rejects ITD's plea to deny sanction to amalgamation by invoking GAAR, as amalgamation was for purpose of business consolidation**

**[2022] 138 taxmann.com 570 (NCLT-Chd.)[19-05-2022] NCLT CHANDIGARH BENCH Panasonic India (P.) Ltd.**

- Where the petitioner companies have clearly made out a case of operational synergy between the amalgamating companies and that the Scheme is for business consolidation and the tax arrangements are merely a consequential fallout of the implementation of the Scheme, the NCLT cannot deny sanction to the Scheme especially when Income-Tax Department has not pointed out any flaws in valuation report/share exchange ratio and the RoC/RD/CCI/OL have not objected to the Scheme.
- The treatment of carrying forward and setting off an accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger etc of companies is clearly spelt out under Section 72A of the Income Tax Act, 1961 read with Rule 9(C) of the Rules. Further conditions regarding carrying forward and setting off losses in cases of certain companies are equally clearly spelt out in Section 79 of the Income Tax Act, 1961. These provisions are sufficient to protect the interest of revenue in any case of amalgamation or demerger etc. Even if a proposal of a Scheme of Amalgamation has been approved by the Adjudicating Authority, it is clarified that no provision of such a Scheme can override the existing provisions of the Income Tax Act.

# Indirect Tax



# **GST CALENDAR**

## **Compliances for the month of June 2022**

<b>Nature of Compliances</b>	<b>Due Date</b>
<b>GSTR-7 (Tax Deducted at Source 'TDS')</b>	<b>June 10,2022</b>
<b>GSTR-8 (Tax Collected at Source 'TCS')</b>	<b>June 10,2022</b>
<b>GSTR-1</b>	<b>June 11,2022</b>
<b>IFF- Invoice furnishing facility (Availing QRMP)</b>	<b>June 13,2022</b>
<b>GSTR-6 Input Service Distributor</b>	<b>June 13,2022</b>
<b>GSTR-2B (Auto Generated Statement)</b>	<b>June 14,2022</b>
<b>GSTR-3B</b>	<b>June 20,2022</b>
<b>GSTR-5 (Non-Resident Taxable Person)</b>	<b>June 20,2022</b>
<b>GSTR-5A (OIDAR Service Provider)</b>	<b>June 20,2022</b>
<b>PMT-06 (who have opted for QRMP scheme)</b>	<b>June 25,2022</b>

## A. ITC refund of unutilized credits is allowed irrespective of duty drawback claim

M/s Numinous Impex (I) Pvt. Ltd. | Madras High Court

**Facts:-** Petitioner export's goods as classified under Customs Heading No. 8483-40-00 of CT Act, 1975 and such exports effected by the Petitioner are "zero-rated supply" within the meaning of Section 16 of the IGST Act, 2017, accordingly, Petitioner had claimed refund of unutilized input tax. Revenue had denied their fund of such unutilized input tax credit under IGST Act, 2017 stating that the Petitioner has claimed duty draw back on the same exports under the provisions of Customs and Central Excise Duties and Service Tax Drawback Rules, 2017 read along with relevant Notification as issued under Section 75 of the Customs Act, 1962.

**Issue:-** Whether exports made without payment of IGST under bond on which, duty drawback is claimed under the provisions of the Customs and Central Excise Duties and Service Tax Drawback Rules, 2017, (formerly 1995) would entitle such an exporter, the benefit of refund of input tax credit under sub-Section (3) of Rule 16 of the IGST Act 2017 r/w 54 of the CGST Act, 2017 read with the Rules made there under.



**Held:-** Hon'ble High Court noted that, the rate of duty drawback for afore-said entry as prescribed vide Notification No.13/2016-Customs under Column No.4 (where the CENVAT facility has not been availed) is same as that of Column No.5 (where the CENVAT facility has been availed), i.e., 2%. Hon'ble High Court stated that the expression 'Cenvat Credit' in column 4 and 5 of aforesaid notification is to be read as 'Input Tax Facility' under the respective enactments and that the Petitioner is entitled to duty drawback at 2% irrespective of the fact that whether the petitioner has claimed ITC under the GST Act. Further Hon'ble High Court held that Para No.2.5 of Circular No.37/2018-Customs, dated Oct 9, 2018 cannot be pressed to deny legitimate export incentive as same is not sanctioned under law. Accordingly, directed the authorities to scrutinize there fund claims filed by the Petitioner and refund the same together with applicable interest.

## **A. One-third standard deduction as value of land is only optional and not mandatory**

**M/s Munjaal Manishbhai Bhutt | Gujarat High Court**

**Facts:-** Petitioner had entered into an agreement with Developer for the purchase of a plot of land along and construction of bungalow on the plot. Further, separate and distinct consideration was agreed between the parties to the agreement for construction of bungalow and sale of land; Petitioner bonafidely believed that by virtue of GST laws, he would be liable to pay GST only towards the consideration payable for construction of bungalow in as much as it would constitute supply of construction service under the GST Act; Developer however, informed the Petitioner that he would be liable to pay tax at the rate of 18% under the GST Act on the total consideration i.e., for land as well as construction of bungalow and that he would be eligible for one-third deduction as value of land in terms of Notification No.11/2017 CT(Rate) dated June 28, 2017 as amended from time to time.

**Issue:-** Whether the impugned notification providing for one-third deduction with respect to land or undivided share of land in cases of construction contracts involving element of land is ultra-vires the provisions of the GST Acts and/or violative Article 14 of the Constitution of India.

**Held:** - Hon'ble High Court noted there's no dispute that sale of land and building are not liable to GST as per the provisions of GST law. Further, that the transaction with respect to the sale of building is taxable qua the construction services unless the entire consideration is received by the supplier after the receipt of completion certificate or first occupation, whichever is earlier. Further, that in the instant case the booking agreement is a part of the record, which specifically provides separate consideration agreed for sale of land and for construction of bungalow.

## **C. No GST under reverse charge mechanism by 'importer' under CIF contracts**

**Union of India vs. M/s Mohit Minerals Pvt. Ltd. | Supreme Court**

**Facts:-** M/s Mohit Mineral's (Respondent) are importers of coal from various countries and pay customs duties on CIF contract; Respondent aggrieved by Notification No.8/2017 IT(R) read with Entry No.10 of Notification No.10/2017 IT(R), which provides for levy of IGST on ocean freight under reverse charge mechanism in the hands of the 'importer' had filed a writ petition before Gujarat High Court; Respondent's main contentions are enlisted as below:- That the said notifications are ultra vires the GST Acts as taxing importers with GST on CIF contracts shall lead to double taxation on ocean freight; That by virtue of Entry No.10 of the Notification No.10/2017 IT(Rate) the liability of paying IGST has been shifted on importer and not on the 'recipient', thereby creating a deeming fiction vis-à-vis taxable event; Hon'ble Gujarat High Court held that the charge on importer in case of CIF value shall not qualify as the 'recipient' of services and that imposing tax on importer importing goods under CIF shall lead to double taxation, thereby held Entry No.10 of Notification No.10/2017 IT(R) as ultra-vires the provisions of GST Act.

**Issue:-** Hon'ble Apex Court relied upon Constitution Amendment Act 2016, where in Article 279B was deleted and Article 279(1) was included in the Constitution of India, clearly reflecting intention of Parliament that the recommendations of GST Council shall have only a persuasive value. Further it noted that Article 279A does not begin with non-obstante clause and Article 246A does not state that it is subject to the provisions of Article 279A. It stated that to regard the recommendations of GST Council as binding edicts would disrupt fiscal federalism, where both the Union and the States are conferred equal power to legislate on GST.

**Held:-** Hon'ble Supreme Court noted that in a CIF transaction, the foreign exporter contracts with a foreign shipping line. The service of shipping is rendered by the foreign shipping line to the foreign exporter and the consideration is accordingly payable by the latter to the former. However, the cost of such shipping may form a component of the price that is eventually charged to the importer, based on the negotiated terms. Whereas, in case of an FOB contract negotiation, the importer would independently avail of the service of shipping and pay for the consideration. Further, Hon'ble Court noted that Section 13(9) of the IGST Act read with Section 2(93)(c) of the CGST Act inherently create a deeming fiction of the 'importer' of goods to be the 'recipient' of shipping service; Hon'ble Court also stated that it is a settled position that the legislature cannot delegate its 'essential legislative functions' and that the functions like levy of tax, subject matter of tax, taxable person, rate of taxation and value for the purpose of taxation are essential legislative functions. Further, that the said levy shall form an extra-territorial levy of tax as the supply of service of shipping in a CIF contract is from the foreign shipping line to the foreign exporter and has no territorial nexus to India and does not constitute 'supply' that can be taxed within the provisions of GST Act; Hon'ble Court while dismissing Department's Special Leave Petition, affirmed the decision of Gujarat High Court and held that the levy of IGST upon 'importer' under CIF contract is ultra-vires the GST statute and lacks legislative competence.



## **D. Recovery of tax in case of search, inspection or investigation to follow proper legal process**

As a fall out of various writ petition's being filed before various High Courts, where in taxpayers have complained about voluntary deposit of tax in form DRC-03 by way of force or coercion, CBIC vide Instruction No.1/2022-23 GST Investigation dated May 25,2022, has issued a clarification that recovery of taxes not paid/short paid can be made under the provisions of Section 79 of the CGST, Act, 2017 only after following due legal process of issuance of notice and subsequent conformation of demand by issuance of adjudication order; Thus, there may not arise any situation where recovery of the tax dues has been made by the tax officer from tax payer during the search, inspection and investigation on account of any issues detected during search proceedings. However, taxpayer is free to deposit any self-assessed tax on voluntary basis; Pr. Chief Commissioner's / Chief Commissioner's CGST Zones and Pr. Director General DGGI have been advised that in case of any complaint is received by taxpayer regarding use of force or coercion forgetting an amount deposited during search, inspection or investigation proceedings, the complaint to be enquired at the earliest and in case of any wrong doing on the part of the tax officer disciplinary action be taken against the defaulting officer's.





# Corporate Finance



## Twixor raises capital from Axilor Ventures, others in Series A round:

Twixor, the digital process automation platform operate by Twixor Pte Ltd has announced that it has bagged \$2.4 million (INR 18 cr) in its Series A funding round from Season Two Ventures, Axilor Ventures and The Chennai Angels. The digital process automation platform was developed by the IIT Madras campus and has established a stronghold in Chennai along with presence in other parts of India. The start-up is headquartered in Singapore and will deploy the fresh proceeds in advancing innovation, strengthen strategic partnerships, global expansion and hire talent. Expanding its reach and the operations will also be at the forefront of its agenda in deploying fresh capital. The founder and CEO, Ashok Anand, spoke about how the platform has been instrumental in creating superior customer experiences, addressing complex use cases, accelerating time to market and reducing the total cost of ownership. The fundraise has been at a strategic moment which will allow the start-up to accelerate on its twin objective of tech innovation and global scale-up.

Here is some latest financial news on private equity, venture capital, and mergers & acquisitions:

### Private Equity

#### **Bodhi Tree Systems invests \$600 mn in Allen Career:**

Bodhi Tree Systems will invest \$600 million (over INR 4,500 crore) in Allen Career Institute at a valuation of USD 1 billion. The transaction is expected to close within three months and the raised capital by the Kota-based coaching major will be used to expand its digital reach globally. The transaction is expected to close within three months. Earlier Reliance-backed Viacom18 invested INR 13,500 crores (USD 1.76 billion) investment for a 40% stake.

(Source: VC Circle, 01 May 2022)

#### **Kaleidofin raises an additional \$15 mn in Series B funding:**

Chennai-based Fintech firm Kaleidofin has raised USD 15 million Series B equity round led by the Michael and Susan Dell Foundation. The company was founded in 2018 and offers products like KaleidoGoals - a goal-based savings solution; KaleidoCredit - credit as a platform service; KiScore - a supervised machine learning-based automated credit health checking platform. The raised funds will be used to further strengthen its product lines, and scale the KaleidoCredit business which aims at offering customized credit products for individuals and nano and micro-SME customers.

(Source: VC Circle, 04 May 2022)

#### **Chiratae-backed Redcliffe Lifetech raises \$61 mn in Series B round:**

Diagnostics platform Redcliffe Lifetech (Redcliffe), has raised \$61 million in its Series B round led by LeapFrog Investments, with participation from Healthquad, Schroders, LC Nueva, Growth Spark Ventures, Chiratae Ventures, and Alkemi Venture Partners. The raised capital will be used to expand Redcliffe's geographic reach in India and scale Redcliffe's platform and increase its product offerings to radiology, disease data profiling, and lifestyle management. Founded in 2018, Redcliffe was founded in 2018 and it delivers diagnostics services in its network of 22 labs across 14 cities.

(Source: VC Circle, 06 May 2022)

### **Higher education-focused iNurture raises \$15 mn, Ventureast exits:**

iNurture Education Solutions, the Bengaluru-based ed-tech firm in higher education, has raised \$15 million in a combination of debt and equity from ADM Capital. The raised capital will be used for propelling the growth of its NEP-ready (National Education Policy 2020) programmes, expanding its 'Centres of Excellence' model across university partners in India and further enhancing its technology stack for student placement. iNurture was founded in 2009 by Ashwin Alija.

(Source: VC Circle, 10 May 2022)

### **SoftBank's Vision Fund unit sees loss of \$26.2 bn, tech portfolio slides:**

SoftBank Group, the global technology investor had recorded an annual loss of \$26.2 billion at its Vision Fund unit as the value of its tech portfolio slid. Softbank has raised concerns on a global economic slowdown as energy prices have surged in the wake of economic sanctions against Russia following its invasion of Ukraine, combined with the onset of monetary tightening in the U.S. to curb inflation.

SoftBank has backed many startups with over \$1 billion in valuation. These include Paytm, Oyo, Ola, Lenskart, Policybazaar, FirstCry, Meesho, Unacademy, Zeta, Swiggy, Ola Electric and InMobi.

(Source: VC Circle, 12 May 2022)

### **Lenskart invests \$100 million in Neso Brands:**

Peyush Bansal's Eyewear brand Lenskart Solutions Pvt. Ltd on has invested over \$100 million in seed funding in Singapore-based Neso Brands. Lenskart is one of the earliest unicorns in the D2C space. It recently raised \$100 million from Alpha Wave Capital and was last valued at \$4.3 billion.

Neso Brands will further invest in Lenskart and grow them by leveraging synergies and accelerate international expansion.

(Source: VC Circle, 16 May 2022)

## **Venture Capital**

### **Open turns unicorn with \$50 mn funding led by IIFL Finance:**

Open Financial Technologies Pvt Ltd, a neo-banking platform has cashed USD 50 mn in a Series D funding round led by IIFL Finance at over USD 1 bn valuation along with existing investors Tiger Global, Temasek, and 3one4 Capital. This fundraise has led Open to doubling its valuation since September 2021 when it had raised USD 62 mn in a Series C from Temasek, Google, and ORS.

(Source: VC Circle, 2nd May, 2022)

### **021 Capital, Global Founders co-led \$4.2 mn seed bet on interviewing AI firm BarRaiser:**

BarRaiser operated by BarRaiser Pvt Ltd, which runs AI-powered interviewing platform BarRaiser has bagged seed capital of USD 4.2 mn. This investment was co-led by 021 Capital and Global Founders Capital with participation from other angel investors.

(Source: VC Circle, 2nd May 2022)



**Inflection Point Ventures, others back relocation firm HappyLocate:**

The Bengaluru-based start-up, HappyLocate Relocation Services Pvt Ltd, which operates relocation platform HappyLocate has raised USD 1.1 mn in its pre-Series A funding round led by Inflection Point Ventures, with co-investments from VM Ventures and RMZ Management.

(Source: VC Circle, 18th May 2022)

**Ratan Tata invests in fuel e-commerce startup Repos Energy for 2nd time:**

Repos Energy, a fuel e-commerce start-up operated by Repos Energy Pvt Ltd announced a fundraising of INR 56 crore in a combination of debt and equity in its pre-Series A round from Ratan Tata, with participation from other undisclosed investors.

(Source: VC Circle, 17th May, 2022)

**Fashinza ropes in WestBridge Capital, Prosus as new investors to raise \$100 mn; valn at \$400 mn:**

Fashinza, a B2B marketplace, has raised around USD 100 mn in a mix of debt and equity in its Series B round from a consortium of new and existing investors. The round was led by homegrown PE fund, WestBridge Capital and Euronext-listed entity, Prosus Ventures. The fresh funds will be utilized in creating a sustainable supply chain for the global fashion industry and in scaling-up the company's presence globally.

(Source: VC Circle, 17th May, 2022)

# Mergers & Acquisition

## **Jindal Worldwide enters EV space with Earth Energy acquisition:**

Jindal Worldwide has acquired Mumbai-based EV startup Earth Energy EV via its subsidiary Jindal Mobilitric for an undisclosed amount. The acquisition also marks the entry of Jindal Worldwide into the electric vehicle sector of India. The financial details of the deal are yet to be disclosed market. Earth Energy, operated by Grushie Energy Pvt. Ltd, was founded in 2017.

(Source: VC Circle, 06 May 2022)

## **upGrad acquires data science institute INSOFE in \$33 mn share swap deal:**

Ed-tech platform upGrad has acquired Asia's first data science education institute, specialising in data science, artificial intelligence, and machine learning 'International School of Engineering (Insofe)', one of the top data science institutes in India, in a \$33 million share swap deal. This is upGrad's seventh acquisition in the last couple of years. INSOFE's management and investors will get 1% equity in upGrad as part of the deal. upGrad is valued at USD 2 billion.

(Source: VC Circle, 02 May 2022)

## **Twitter deal temporarily on hold, tweets Musk:**

Elon Musk's offer to buy twitter at \$44-billion is temporarily on hold while he waits for data on the proportion of its fake accounts, sending shares in the social media platform plunging. Shares of the social media company fell 20% in pre-market trading. The spread between the offer price and the value of Twitter shares had widened in recent days, implying less than a 50% chance of completion, as investors speculated that the downturn would prompt Musk to walk or seek a lower price.

(Source: VC Circle, 13 May 2022)

## **L&T Infotech, Mindtree set to merge creating fifth largest IT service provider:**

L&T Infotech and Mindtree, the two independently listed IT services companies under Larsen & Toubro Group, would merge to create India's fifth-largest IT services provider. Current Mindtree chief executive officer and managing director Debashis Chatterjee will lead the combined entity while LTI's chief executive Sanjay Jalona has resigned citing personal reasons.

(Source: VC Circle, 6 May 2022)

## **TikTok-owner ByteDance exits DailyHunt, Josh parent VerSe:**

Chinese investor ByteDance, the parent company to the popular short-video app TikTok, has fully exited VerSe Innovation, the parent company of content aggregator DailyHunt and short video platform Josh. The move was precipitated by the Indian government's aversion to Chinese ownership of Indian companies.

Source: VC Circle, 6 May 2022)

# Corporate & Legal



**In this edition, we have tried to bring to your notice the latest amendment that followed in the month of May 2022 issued by MCA, RBI, SEBI, DIPP and others.**

## **Amendments Issued by MCA**

### **Relaxation in paying additional fees in case of delay in filling all the event**

Relaxation in paying additional fees in case of delay in filling all the event-based e-forms by LLPs which are due on and after 25th February 2022 to 31st May 2022 up to 30th June 2022.

To read more:

<https://www.mca.gov.in/bin/dms/getdocument.mds=%252Bq7Wbf7AGhkscHXpOcxhgQ%253D%253D&type=open>

## **Amendments Issued by SEBI**

### **Standard Operating Procedures (SOP) for dispute resolution under the Stock Exchange arbitration mechanism for disputes between a Listed Company and/or Registrars to an Issue and Share Transfer Agents (RTAs) and its Shareholder(s)/Investor(s)**

Regulation 40 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and bye-laws, listing agreement & regulations of the stock exchanges provide for dispute resolution under the stock exchange arbitration mechanism for disputes between a listed company and its shareholder(s)/ investor(s).

SEBI vide circular dated April 08, 2022 advised Exchanges to put in place a Standard Operating Procedure (SOP) for operationalizing the resolution of all disputes pertaining to or emanating from investor services such as transfer/transmission of shares, demat/remat, issue of duplicate shares, transposition of holders, etc. and investorentitlements like corporate benefits, dividend, bonus shares, rights entitlements, credit of securities in public issue, interest /coupon payments on securities, etc

To read more:

[https://www.sebi.gov.in/legal/circulars/may-2022/standard-operating-procedures-sop-for-dispute-resolution-under-the-stock-exchange-arbitration-mechanism-for-disputes-between-a-listed-company-and-or-registrars-to-an-issue-and-share-transfer-agents-\\_59345.html](https://www.sebi.gov.in/legal/circulars/may-2022/standard-operating-procedures-sop-for-dispute-resolution-under-the-stock-exchange-arbitration-mechanism-for-disputes-between-a-listed-company-and-or-registrars-to-an-issue-and-share-transfer-agents-_59345.html)



## Amendments Issued by RBI

### **Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit – Extension**

The government has issued a clarification that the extended IES will also be available to such beneficiaries for segments other than for which they have availed of PLI benefits.

To read more:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12327&Mode=0>

### **IRDAI**

#### **Motor Third Party Premium and Liability Rules for the Financial Year 2022-23**

Motor Third Party Premium and Liability Rules for the Financial Year 2022-23 were published, as required by sub-section (1) of section 212 of the Motor Vehicle Act, 1988 (59 of 1988), vide notification of the Government of India in the Ministry of Road Transport and Highways, number G.S.R. 215 (E), dated the 17th March, 2022 in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) inviting objections and suggestions from all persons;

To read more:

[https://www.irdai.gov.in/ADMINCMS/cms/frmwhats\\_List.aspx](https://www.irdai.gov.in/ADMINCMS/cms/frmwhats_List.aspx)

### **Ministry of Micro, Small & Medium Enterprises**

The Ministry of Micro, Small & Medium Enterprises has extended the Credit Guarantee Scheme for Subordinate Debt up to March 31, 2022. The Credit Guarantee Scheme for Subordinate Debt was approved by the Government on June 01, 2020 and the scheme was launched on June 24, 2020 to provide credit facilities through lending institutions to the promoters of stressed MSMEs viz. SMA-2 (special mention accounts) and NPA (non-performing assets) accounts are eligible for restructuring as per RBI guidelines on the books of the Lending institutions.

To read more:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1805864>



A close-up photograph of several green bamboo stalks. The stalks are vertical and show distinct nodes where the segments meet. The background is blurred, showing more bamboo and some light-colored flowers or leaves. In the top right corner, there is a green rectangular box with a white border and a small notch at the bottom left corner. Inside this box, the words "Tax" and "calendar" are written in white, stacked vertically.

# Tax calendar

# June 2022- Tax Calendar

**7 JUNE**

Due date for deposit of Tax deducted/collected for the month of May, 2022. 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

**14 JUNE**

Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of April, 2022

**14 JUNE**

Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of April, 2022

**14 JUNE**

Due date for issue of TDS Certificate for tax deducted under section 194M in the month of April, 2022

**15 JUNE**

Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of May, 2022 has been paid without the production of a challan

**15 JUNE**

Quarterly TDS certificates (in respect of tax deducted for payments other than salary) for the quarter ending March, 2022

**15 JUNE**

First instalment of advance tax for the assessment year 2023-24

**15 JUNE**

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 May, 2022

**15 JUNE**

Furnishing of statement (in Form No. 64D) of income paid or credited by an investment fund to its unit holder for the previous year 2021-22

**29 JUNE**

Due date for e-filing of a statement (in Form No. 3CEK) by an eligible investment fund under section 9A in respect of its activities in financial year 2021-22

# June 2022- Tax Calendar

<b>30 JUNE</b>	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of May, 2022
<b>30 JUNE</b>	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of May, 2022
<b>30 JUNE</b>	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of May, 2022
<b>30 JUNE</b>	Return in respect of securities transaction tax for the financial year 2021-22
<b>30 JUNE</b>	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending March 31, 2022
<b>30 JUNE</b>	Statement to be furnished (in Form No. 64C) by Alternative Investment Fund (AIF) to units holders in respect of income distributed during the previous year 2021-22
<b>30 JUNE</b>	Report by an approved institution/public sector company under section 35AC(4)/(5) for the year ending March 31, 2022
<b>30 JUNE</b>	Due date for furnishing of statement of income distributed by business trust to its unit holders during the financial year 2021-22. This statement is required to be furnished to the unit holders in form No. 64B
<b>30 JUNE</b>	Furnishing of Equalisation Levy statement for the Financial Year 2021-22



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