

Tax Law Educare Society is a non-profit organization with its main aim is to provide latest updates to its members on Tax, Accounts and Finance matters.

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Income Tax

Income Tax Department detects Rupee one lakh crore unreported high value transactions

These institutions need to report 'High value transaction' under section 285BA of the Income-tax Act, 1961 to the Directorate of Intelligence and Criminal Investigation Department of Income tax.

This department had done a detailed survey on the above institutions and the result of the survey was surprising.

According to the finding of this report, the number of unreported transaction detected in specified financial transaction verification survey is three lakh, which is three times higher than the FY 2016-2017 numbers. Further, the value of the unreported transactions shot up more that five times in a year, IT sources revealed.

The report said that the value of unreported transaction detected in FY 2017-18 is Rs. 1.03 lakh crore as compared to FY 2016-17 which was just Rs. 16,240 crore. Also, according to the report, more than 800 surveys were done by the Directorate of Intelligence and Criminal Investigation. According to the officer, about 100 to 10,000 cases of unreported high value transactions were found in individual surveys.

A senior official of the Income Tax department told ANI on the condition of anonymity that all the entities need to report all the statements of financial transaction.

"We have completed our survey and found that they were not reporting the high value transactions. We had taken action against them under section 277 and 277A of IT Act. We had given time to many of them to file revision in reasonable time frame. Some of them who didn't respond with supportive documents, we had also started prosecution for false statement and helping in tax evasion. Also we have penalized many of them whose transaction were found suspicious and were unable to submit proof," IT sources revealed.

The Income Tax (IT) department has detected three lakh unreported transactions in the financial year 2017-18, sources revealed on Thursday. The value of these transactions detected is more that Rs. one lakh crore.

These unreported transactions were detected by the Directorate of Intelligence and Criminal Investigation Department of Income tax.

The Directorate of Intelligence and Criminal Investigation has done more than 800 surveys on co-operative banks, NBFCs, authorised dealer, foreign exchange dealers, sub-registrars, jewellers, and hospitals.

Income Tax: Case Laws & Judicial pronouncements

1. Section 28(iv) - Business Income - Value of any Benefit or Perquisite, arising from Business or Exercise of Profession Waiver of loan for acquiring capital assets cannot be taxed as perquisite under section 28(iv) as receipt in hands of debtor/assessee are in form of cash/money and it also cannot be taxed as a remission of liability under section 41(1) as waiver of loan does not amount to cessation of trading liability - *Commissioner v. Mahindra And Mahindra Ltd.* - [2018] 93 taxmann.com 32 (SC)

2. Section 9 - income - Deemed to accrue or arise in India

Fee for technical services : In order to fall within ambit of article 12, of India-U.S. DTAA, mere rendering of services involving technical knowledge, skill etc. is not sufficient; it contemplates that person utilizing service should be able to

make use of such technical knowledge, skill etc. on his own and without recourse to service provider in future - *Assistant Commissioner of Income-tax, Circle 14 (1), New Delhi v. Petronet LNG Ltd.* - [2018] 92 taxmann.com 407 (Delhi - Trib.)

3. Section 12A, Cancellation of registration : Where amendment in trust deed does not amend object clause but amended clause relates to trust's management in future, cancelling registration under section 12AA is not justified - *Commissioner of Income-tax (Exemption) v. Sadguru Narendra Maharaj Sansthan* - [2018] 92 taxmann.com 405 (Bombay)

4. Section 159, Penalty : Where in course of block assessment, no penal proceedings had been initiated against assessee, when he was alive and, moreover, assessment had not been done in hands of legal representative, penalty could not be levied on legal representative - *Commissioner of Income-tax, Chennai v. Dr. K.C.G Verghese* - [2018] 92 taxmann.com 400 (Madras)

5. Section 245 - Refunds - Setting off against tax due.

Non-speaking Order: Where respondent passed an order in terms of section 245 whereby refund available to assessee for assessment year 2005-06 was adjusted against demands for assessment years 2004-05, 2006-07 and 2008-09, since said order was a non-speaking one and, moreover, it was passed without considering assessee's objections, same deserved to be set aside - *Vodafone India Ltd. v. Deputy Commissioner of Income-tax, Circle 8(3)(2)* - [2018] 92 taxmann.com 399 (Bombay)

6. Failure to establish financial capacity of proposed buyer of property would call for sec. 68 additions: Delhi High Court

a) The Assessing Officer had made addition invoking section 68 on account of unexplained cash deposits in the bank accounts of the assessee and his minor sons on different dates as assessee could not furnish details and explain source of deposits. The Assessee took the stand that he had received certain sum as advance in cash from 'A', 'R', 'G' and 'D', with whom he and his wife had entered into two agreements to sell in respect of a property. Further, the assessee had asserted that the sale did not materialize and later said sum was returned in cash. The CIT (A) deleted the addition whereas the Tribunal on accepted the revenue's appeal and confirmed the addition. Aggrieved-assessee filed the instant appeal before the High Court.

The Delhi HC held in favour of revenue as under:

- 1) The property in question was a commercial property, which was rented out to a bank. It was per se unbelievable that the proposed purchasers had paid 75% of the sale consideration in cash and not even a rupee was paid by bank instrument.
- 2) Cash payment purportedly received from the proposed buyers was not deposited on one date, but allegedly on different dates.
- 3) Later on, the agreements to sell didn't materialize and were finally cancelled which resulted in return of 75% of sale consideration to the proposed buyers in cash.
- 4) Further, as per the documents filed by the assessee, 'A' had declared income of Rs. 1,48,185, 'R' had declared income of Rs. 1,54,000 and 'G' had declared income of Rs. 69,616. Details with regard to 'D' were not furnished.
- 5) Thus, the financial capacity of the proposed buyers wasn't established and, accordingly, addition under section 68 was rightly called for by AO. [2018] 92 taxmann.com 324 (Delhi).

7. ITAT rules in favour of Flipkart; discounts offered to buyers aren't intangible assets

Facts:

- a) Assessee-company was a wholesale dealer and acquired goods from various persons. It immediately sold the goods to retail sellers like M/SWS Retail Services Pvt. Ltd. and others, who subsequently sold those goods as sellers on internet platform under the name 'Flipkart.Com'.
- b) To increase the volume of sale, assessee was purchasing goods at say Rs.100 and selling them to the retailers at say Rs.80. This profit foregoing strategy had resulted in assessee being a loss making company.
- c) Assessing Officer (AO) held that the profits foregone by selling goods at less than cost price was to be regarded as expenditure incurred in creating intangibles/brand value or goodwill. Thus, only depreciation claim could be allowed on it.
- d) CIT(A) confirmed the order of the AO. Aggrieved assessee filed the instant appeal before the Tribunal.

The Tribunal held in favour of assessee as under:

- 1) There was no accrual of any liability on account of any expenditure or actual outflow of funds towards expenditure. One couldn't proceed on the basis of presumption that the profit foregone was expenditure incurred and further that expenditure so incurred was for acquiring intangible assets like brand value, goodwill etc.
- 2) For creation of intangibles like say goodwill, it is not possible to ascertain the cost of acquisition of goodwill. It was, therefore, not possible to say that profits foregone created goodwill or any other intangibles or brand value to assessee.
- 3) Since assessee did not incur any expenditure in creating intangibles/brand value or goodwill, discounts offered by selling goods at less than cost price were to be treated as revenue expenditures and, accordingly, deduction was allowable.

8. Income cannot be taxed twice: Mahaveer Kumar Jain vs. CIT, Jaipur (Supreme Court)

It is a fundamental rule of law of taxation that, unless otherwise expressly provided, income cannot be taxed twice. A taxing Statute should not be interpreted in such a manner that its effect will be to cast a burden twice over for the payment of tax on the taxpayer unless the language of the Statute is so compelling that the court has no alternative than to accept it. In a case of reasonable doubt, the construction most beneficial to the taxpayer is to be adopted

It is not disputed that there can be double taxation if the legislature has distinctly enacted it. It is only when there are general words of taxation and they have to be interpreted, they cannot be so interpreted as to tax the subject twice over to the same tax..... If any double taxation is involved, the Legislature itself has, in express words, sanctioned it. It is not open to any one thereafter to invoke the general principles that the subject cannot be taxed twice over.

9. No deemed dividend if advance from company was just to block deal of sale and purchase on behalf of co.: Delhi ITAT[2018] 92 taxmann.com 125

Facts:

- a) Assessee was a director of company-SEPL in which he held 50% shareholding. SEPL was engaged in the business acting as commission agent for sale and purchase of ships.
- b) Assessee was actively involved in the negotiations for sale and purchase of ships with the interested parties. In the course of such negotiations, he required funds to block the deal or where advances had to be paid to intermediary brokers. For such purposes, SEPL had provided advance to the assessee.
- c) Assessing Officer (AO) treated the amount of advance received by assessee from SEPL as deemed dividend in his hands. Accordingly, an addition was made to the assessee's income.
- d) CIT(A) confirmed the order of AO. Aggrieved-assessee filed the instant appeal before the Tribunal

The Tribunal held in favour of assessee as under:

- 1) The sub-clause (e) of section 2(22) seeks to bring within the tax net accumulated profits which are distributed by closely held companies to its shareholders in the form of loans or advances.
- 2) The word 'advance' has to be read in conjunction with the word 'loan' which carries an interest and there is an obligation of repayment. The word 'advance' if not found in the company or in conjunction with a word 'loan' may or may not include the obligation of repayment.
- 3) The words 'loans or advances' can be applied to loans or advances simpliciter and not to transactions carried out in the course of business. There was no legal bar such transactions.
- 4) By granting advance, if the business purpose of the company was served and which was not the sum, which it otherwise would have distributed as dividend and couldn't be brought within the deeming provision of treating such advance as deemed dividend.

10. Bogus Purchases: The fact that the supplier admitted to issuing bogus bills does not necessarily mean that he had issued accommodation bills to the assessee. There is subtle but very important difference in issuing bogus bills and issuing accommodation bills to a particular party. The difference becomes very important when a supplier in his affidavit admits supply of goods. As far as sales are concerned there is no doubt about the genuineness of such sales. It is also a fact that suppliers were paying VAT and were filing their returns of income. In response to the notices issued by the AO u/s 133(6) of the Act, the supplier admitted the genuineness of the transaction. Accordingly, the purchases cannot be treated as bogus. *Shantivijay Jewels Ltd vs. DCIT (ITAT Mumbai)*

11. Section. 158BB Block Assessment: While it is a cardinal principle of law that in order to add any income in the block assessment, evidence of such income must be found in the course of the search u/s 132, any material or evidence found/collected in a survey u/s 133A which has been simultaneously made at the premises of a connected person can also be utilized while making the Block Assessment. The same would fall under the words "and such other materials or

information as are available with the Assessing Officer and relatable to such evidence” occurring in s. 158 BB CIT vs. S. Ajit Kumar (Supreme Court)

12. Section 2(15) -Objects of general public utility : Receipt of subscriptions from members, sale of publications, Fafai Journal, holding of workshops & conferences, directory receipts etc., were provided for facilitating dominant object of assessee-trust, viz., providing knowledge, information, awareness, demonstrations, etc., to members of Fragrance and Flavours industry and thus, they fell within realm of section 2(15) - *Fragrance & Flavours Association of India v. Deputy Director of Income-tax (E)- 1 (2), Mumbai - [2018] 92 taxmann.com 325 (Mumbai - Trib.)*

13. Income – Receipts by co-operative society from its members i.e. non-occupancy charges, transfer charges, common amenity fund charges and certain other charges are exempt from income tax based on the doctrine of mutuality; notification date 9th Aug. 2001 issued under section 79A of the Maharashtra Co-operative Societies Act.1960 is applicable only to co-operative housing societies and has no application to a premises society which consists of non-residential premises. (In favour of the Assessee)

Income Tax Office vs. Venkatesh Premises Co-operative Society Ltd. (Supreme Court)

14. Section 14A - Expenditure incurred in relation to income not includible in total income: Administrative expenses : Where assessee had its surplus fund against which minor investment was made, no question of making any disallowance of expenditure in respect of interest and administrative expenses under section 14A arose and therefore, there was no question of any estimation of expenditure in respect of interest and administrative expenses under rule 8D; SLP filed against said decision dismissed - **Principal Commissioner of Income-tax-IV, Ahmedabad v. Sintex Industries Ltd. - [2018] 93 taxmann.com 24 (SC)**

15. Section 153C - Search and Seizure - Assessment of income of any other person: Applicability of : Where in course of search carried out at premises of a third person, a hard disk was seized and on basis of same proceedings under section 153C were initiated against assessee, since Assessing Officer of searched person failed to record a specific satisfaction as to how said hard disk belonged to assessee, impugned proceedings under section 153C were unjustified - **Principal Commissioner of Income-tax, Delhi-18 v. N.S. Software (Firm) - [2018] 93 taxmann.com 21 (Delhi)**

Goods & Services Tax: Updates

1.Surrender of tenancy rights against consideration liable to GST;

Circular No. 44/18/2018- CGST, Dated 02-05-2018

The Govt. has clarified that the transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable under GST, but the grant of tenancy rights in a residential dwelling for use as residence against tenancy premium is exempt from GST. Further, it also clarified that the services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in form of tenancy premium is also liable to GST.

2. High Sea Sales transactions under GST

High Sea Sales, from the point of view of an entity incorporated in India, refer to the sale of goods which is made after the goods cross the Custom Barriers of the Foreign Nation before crossing (entering) the Custom frontiers of India by way of transfer of document of title.

This Act does not enjoy extra-territorial jurisdiction and is limited to imposing tax if the goods are imported into the territory of India.

The same is supported by **Authority of Advance Rulings Kerala Order No.- CT/2275/18-3 dated March 26, 2018.**

Transaction commences outside the territory of India but is concluded by entering into the territory of India.

Transactions taking place before filing of bill of entry are termed as "high sea sales" transactions under common trade practice where the original importer sells the goods to a third person before the goods are entered for customs clearance. This supply is covered within definition of inter-State supply. Provisions of section 3(12) of the Customs Tariff Act, 1975 inasmuch as in respect of imported good provide that all duties, taxes, cess', etc., shall be collected at the time of importation, i.e., when the import declarations are filed before the customs authorities for the customs clearance purposes. High sea sale transactions, though are regarded as supplies in the course of inter-State trade or commerce, are not subject to levy of IGST as the supply takes place before filing of Bill of entry and IGST in case of importation of goods can be levied at the time of filing of Bill of Entry.

Hence, Goods are liable to IGST when they are imported into India, whether one or multiple and the IGST is payable at the time of importation of goods into India.

3. Canteen facilities extended to employees to be deemed as taxable services under GST–AAR: Advance Ruling

The Authority for Advance Ruling, Kerala has recently clarified that recovery of food expenses from the employees for the canteen services provided by company would come under the definition of outward supply defined in section 2(83) of the Act, 2017 and, therefore, would be taxable as a supply of service under GST. The interpretations done by the advance ruling authority have caused apprehensions regarding the taxability of other reimbursements, as such reimbursements may face the GST heat. The ruling, is solely based on the interpretation of the expressions 'business', 'composite supply' & 'consideration'.

This advance authority ruling has revived the disputes over the taxability of employer-employee transactions. Most of the transactions between employer and employee can be brought under the ambit of GST on the similar view taken in the ruling. This may lead to greater challenges for the employers, so far as the valuation of such supplies is concerned, since employer and employee are related persons. Now ambiguities are revolving around the rate of tax to be charged on such supplies. In order to minimize the litigation and avoid disputes over such transactions, it would be in the interest of the industry to seek exemptions on such supplies akin to erstwhile taxation regime. In light of the view taken by the advance ruling authority and in order to avoid compliance burden, it would be in the interest of the corporates not to recover such food cost from their employees and restructure their employment contracts accordingly.

4. Section 2(30) of CGST, 2017 - Composite Supply

Supply of turnkey Engineering, Procurement and Construction(EPC) contract for construction of a solar power plant wherein both goods and services are supplied is a works contract and hence cannot be treated to be a Composite Supply in terms of section 2(30)- **Giriraj Renewables (P.) Ltd., In re. - [2018] 93 taxmann.com 93 (AAR- Maharashtra)**

5. Supply of food and beverages in trains is supply of food: AAR. Deepak & Co., In re.- [2018] 93 taxmann.com 94 (AAR - New Delhi)

Supply of food and beverages in trains doesn't amount to service; considered as supply of goods. The assessee was engaged in supplying of food and beverages to the passengers of trains as per the menu and tariff approved by the Indian Railways. It contended that the supply of any food article or beverage in any manner for consumption on or away from the premises is taxable at the rate of 5%. It filed an application for advance ruling for the same.

The Authority for advance ruling held that a train is a mode of transport and cannot be called as a restaurant, eating joint, mess or canteen, etc. Therefore, the supply of goods, i.e., food, bottled water, etc., shall be charged to GST on value of individual items at the applicable rates as there is no element of service in it.

6. Registration u/s 23(1) of CGST: Registration required in case of liability under RCM, even if no taxable supplies effected

Recently, the Authority of Advance Ruling (AAR), West Bengal in the case of **Joint Plant Committee [2018] 92 taxmann.com 208 (AAR-West Bengal)**, has held that, in case applicant is engaged exclusively in supplying goods or services which are wholly exempted from tax, is not liable to get registered under the provisions of Section 23(1) of the CGST Act, 2017. This is subject to the condition that the applicant is not otherwise liable to pay tax under the reverse charge mechanism in accordance with the GST Law.

In this case, the applicant is engaged exclusively in supplying the goods and services that are wholly exempted from payment of tax, and therefore not liable to get registered in accordance with the provisions under section 23(1) of the GST Act. However, the question arises that whether there is a requirement for registration under section 24, even if it is not making any taxable supply.

According to section 24 of the GST Act, 2017, every person is required to get registration under certain circumstances even if his aggregate turnover does not exceed the threshold limit specified under Section 22(1) of the Act (i.e Rs. 20 lakhs). Further, the provisions of Section 24 is not subject to the provisions of Section 23 of the GST Act. Therefore, if a person is not liable to be registered for making exclusively exempt supplies, but is liable to pay tax under Reverse Charges under Section 9(3) of the GST Act or 5(3) of the IGST Act, then he shall be required to get himself registered under the GST Act, irrespective of the quantum of the aggregate turnover.

Key takeaways of 27th GST Council Meeting

The 27th GST Council meeting was held on May 4, 2018. The all-powerful GST Council has approved of the new return filing procedure based on the recommendations of the Group of Ministers (GoMs). The key takeaways from the GST Council meeting are as under:

1. The Return forms GSTR 2 and GSTR 3 shall remain suspended for the time being. Suppliers who are liable to file monthly GST return shall file GSTR 1 and GSTR 3B every month.
2. With effect from October 1, 2018, all taxpayers other than those who opt for Composition Scheme or who have no taxable transactions shall file return once every month.
3. Suppliers who opt for Composition Scheme or who have no taxable transactions shall have the facility to file quarterly returns.
4. Recipient or buyers shall not be required to upload any purchase invoices on GST portal.
5. With effect from October 1, 2018, the facility of provisional Input Tax Credit shall be withdrawn and ITC available to a recipient or buyers shall be calculated automatically by the system on basis of transactions & tax details actually reported by the suppliers.
6. The Input Tax Credit shall not be reversed from the account of the buyer in the event of default in payment of tax by the supplier. In this case, the recovery shall be made by the Govt. from the supplier.
7. It has been decided that the GSTN shall be converted into a fully owned Govt. Company. The Centre and State governments would acquire remaining 51% equity in GSTN for Rs. 5.1 crores.

Proposals Discussed by Council

1. The Council has discussed the proposal of extending a concession of 2% in GST rate on B2C supplies if payment for such supply is made through Cheque or Digital mode. However, such concession shall be limited to Rs. 100 per transaction.
2. The council has discussed the proposal of imposing a sugar cess of Rs. 3 per kg. of sugar which shall be in addition to existing GST rate of 5%. The central government intends to impose the sugar cess to raise funds for the sugarcane growers.
3. There was also discussion on the proposal of reduction of GST rate in case of supply of ethanol.

Company Law

Key highlights of amendments to various Rules under Companies Act, 2013

The Central Government has notified amendment to various rules under Companies Act, 2013. The amendments are effective from May 07, 2018. The amended provisions have been discussed as under:

1. Amendment relating to meeting of board and its powers: The Government has amended the Companies (Meetings of the Board and its Powers) Rules, 2014. A new provision has been inserted to Rule 4 of the said rules providing that any other director may participate through video conferencing or other audio visual means if there is quorum in a meeting through physical presence of directors.

2. No more ratification of appointment of Auditor in AGM: The Government has amended the Companies (Audit and Auditors) Rules, 2014. Amendment has been made to rule 3 whereby proviso to sub-rule 7 of Rule 3 and explanation thereunder have been omitted. Which means that the requirement of ratification of appointment of Auditor in every annual general meeting (AGM) till the conclusion of sixth AGM has been removed. Further Rule 9 of the said rules has been omitted. Rule 10A and Rule 14 have also been amended.

3. 15 days' time for re-submission in case of reservation of name through RUN: The Central Government has amended the Companies (Registration Office and Fees) Rules, 2014. A new provision has been inserted under to Rule 10(3) providing that - Registrar shall allow fifteen days' time for re-submission in case of reservation of name through web service -RUN for rectification of defects if any. Earlier re-submission was not allowed in case of re-submission of application through RUN.

4. Additional fee payable on delayed annual filing: Further amendment has been made in Annexure I of the Companies (Registration Office and Fees) Rules, 2014 prescribing additional fee of Rs. 100 per day effective from July 1, 2018 for delayed in filing of annual return and financial statements.

The additional fee shall also be applicable to revised financial statement or board report as well as Secretarial audit report.

5. Govt. tweaks norms for appointment of Independent Directors: The Govt. has amended Companies (Appointment and Qualification of Directors) Rules, 2014 whereby amendment has been made to Rule 5. The revised norm provides that in case of appointment of Independent Director, none of the relatives of such independent director should be indebted to the company, its holding subsidiary or associate Company or their promoters, or directors; or has given a guarantee or

provided any security in connection with indebtedness of any third person to its holding, subsidiary or associate company or their promoter or directors for an amount of Rs. 50 Lakhs at any time during the two immediately preceding financial years or during current financial year.

6. *Amendment relating to prospectus and allotment of securities*: The Government has amended the Companies (Prospectus and Allotment of Securities) Rules, 2014. The amendment prescribes omission of rule 4 - Reports to be set out in the Prospectus, rule 5- Other matters and reports to be stated in the prospectus and rule 6- Period for which information to be provided in certain cases.

Miscellaneous

Making a provision under Ind AS and AS framework

While preparing financial statements, making provisions for various losses and expenditure is a significant exercise. It should present useful and sufficient information to the users of financial statements about the losses a company may incur in future on happening or non-happening of an event. A provision is nothing but a liability of which timing and amount remain uncertain. So, it is measured only by using substantial degree of estimation. For example, provision of doubtful debts is made on the basis of expected amount that can't be recovered from a customer; provision for warranty is an estimated amount of expenditure that could be incurred when a customer claims warranty.

There is accounting guidance on how and when a provision is required to be made by a company under AS 29, Provisions, Contingent Liabilities and Contingent Assets for AS compliant companies and Ind AS 37.

Section 252 - Removal of Name from Register.

Where a company was carrying on its operation which was evident from fact that it was filing income tax returns, service tax returns and all other documents, it could not be said that company was defunct or non-operational and, therefore, name of company was to be restored on an undertaking that it would file its pending annual returns and balance sheets along with requisite late filing fees - *Arora Buildwell (P.) Ltd. v. Registrar of Companies NCT of Delhi & Haryana - [2018] 92 taxmann.com 321 (NCLT - New Delhi)*

Digital ad spend set to cross Rs.12,000 crore by December

Digital advertising spend in the country will touch Rs.12, 046 crore by December 2018, according to a report. Digital advertising spends now account for about Rs.9,266 crore, growing at the rate of 27 per cent. The growth in spends on digital advertising is expected to continue at a CAGR of 30 per cent to touch Rs.12,046 crore by the year-end. The report 'Digital Advertising in India 2017', published jointly by the Internet and Mobile Association of India (IAMAI) and market research firm Kantar IMRB, found that almost 27 per cent of the total digital ad spend, roughly Rs.2,502 crore, is made on search.

Ten Small Business Ideas in India with Low Investment.

Since Internet technology has become the backbone of every established business, let us begin with the business ideas that are majorly or solely based on Internet usage.

1. Social media services

Social media has completely taken the scene of communication, advertising and online marketing to the next level. Any well-established brand or business you name today has a social media handle to manage its advertising and marketing to dish out sales and earn higher profits.

Apart from this, Newer Social Media apps are being developed every now on then with an aim to make it big in the market.

While Facebook Facebook is the global leader here, LinkedIn took it to a newer level as it solely focused on promoting people's business and networking through social media.

Today LinkedIn is globally touted as "The Facebook for business". Even Mark Zuckerberg, the founder of Facebook, has an account on LinkedIn.

WhatsApp, the world's number one instant messaging app today has an Indian rival in going by the name "Hike". WhatsApp was doing great and still is.

Hike messenger gave instant messaging a different turn by adding features like video stories, live filters, stickers, games, etc. Today Hike has a user base of over 150 million worldwide.

All you need to do is

- Come up with a new idea or twist an existing idea in a more creative and unique manner.
- Approach a reliable app developer to create the app.

- Approach an advertiser for pricing and promotion.
- Target the right section of the audience and deliver.
- It's a simple logic, "It's not about who has it first. It's about who has it best!"

2. Blogging

Since the last decade, blogging has created a platform for people and businesses to share and spread knowledge and opinion through online contents and posts.

It has now become a profession that earns you both income and respect. If you go out on a survey today, you will find at least one blogger in every 10 people you come across.

More than that, you will find that every startup that has just began, is moderately successful or even well established, is a blogger. Blogging is considered a backbone for every successful business.

It has gained much popularity lately and has had crucial impacts on the worlds of politics, business, and society. People and businesses around the world are recognizing the power of bloggers as online influencers.

Becoming a blogger is pretty easy, but keeping up with it requires sincere dedication and passion. There are numerous free guides available online that can help you create a blog within minutes.

To become a successful blogger, you need to

- Know your passion and choose the right niche. Just having a business idea is never enough. You need to be passionate about it and willing to take it to the distance. Pick the right niche for your blog that targets the right audience.
- Decide whether it is short term or long term. Never choose a niche that has no future existence or popularity. The niche you choose should be long-term and sustainable if you want to keep earning stable profits.
- Decide how to monetize your blog. Once you have created a blog, you need to decide which advertising program to sign up with to earn money.
- Stay up to date with the latest trends and information revolving around your business niche.

3. Translation services

One thing that Internet and blogging has done right is it has bridged the gap between influencers and audiences across the globe.

Influencers today are for interpretation services that provide multilingual broadcasts of their posts and services. Translation services are getting global recognition as blogging from international influencers are aiming that language should no more be a barrier.

There are numerous international brands that are aiming to expand in India and are looking for reliable Translation services that can aid them in promoting their work in multiple regional languages in India.

This trend has resulted in many Translation services popping into the scene, so much so that Translation itself has become a reputed business today.

Interpretation and Translation is now a business that requires less investment and delivers more. All it requires is personnel with a solid grip on a particular International language along with a corresponding knowledge about regional Indian languages.

4. Freelancer

21st century has been the "Age of the freelancers". You can act as a freelancer and work freely on any project of your own wish.

The biggest advantage of such a business is that you will not be bounded by any contract and can work for as many projects you want from multiple sources.

You can work on your own time and charge a fee based on your skill and project delivery.

Even in the freelancing category, the most popular professions that are chosen by people today are:

- Freelance Photography
- Freelance Content Writer
- Freelance Web Designer
- Freelance App Developer
- Freelance Graphic Designer
- Freelance Animation
- Freelance Illustration and Logo Designing
- Freelance Video Editor
- Freelance Music Composer
- Freelance Cinematography
- Freelance HR management

5. Education services

Education service is one thriving business in today's world of growing inventions, knowledge, technology and competition.

Creating a network of skilled professionals to teach, train and guide students and adults in various fields is a reliable and popular choice of business at a small scale that can expand overtime.

Search the web and you will find countless online and offline tutoring programs for helping students at school and college level with education. This business requires more of skill, knowledge and networking and less of investment. You must be skilled and passionate enough to ensure positive results and reputation.

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6. Career Guidance

With education come growing competition and multiple career options, due to which parents or students often get confused and they seek professional advice from experts.

You can build a network of experienced counselors and professionals and create a Career guidance and consultation program to help them by charging a nominal fee. This field is experiencing growing importance with time and can be done both online and offline.

7. Cyber Security & IT Security

When it comes to Internet, Social networking, Social media, Finance and blogging, Cyber security is an important aspect that needs to be taken seriously to prevent cyber crimes. Internet crime has grown up drastically with the rapid use of Internet today.

There are many cases of online thefts and hacking that come into the limelight every now and then. As a result, organizations and forensic departments are always in the hunt for good cyber and IT security experts.

If you are very good at IT security services, then you can turn this skill into a full blown business idea. You build a reputed network of skilled IT professionals and your team may get hired by top organizations that are in need of cyber and IT security services.

8. Photography

Becoming photographer is the business itself. If you are very good at clicking pictures, you can try your hand at becoming a professional photographer.

There are multiple occasions like weddings, receptions, workshops, seminars, concerts, exhibitions, book/music launches and other individual or business occasions where people call for the photographer.

You can either sign up with some photography organization.

You can choose to work as a freelance photographer.

You can even choose to create your own business to deploy photographers to different occasions as and when needed.

The only investment you need to make is on your portfolio and the gadgets required for photography.

9. Online Tutorials

One big thing that Internet Technology has done today is that it has bridged the gap between talent and audiences. Today YouTube and personal tutorial websites have enabled artists and professionals to share their talent, knowledge and skills with their followers.

The biggest advantage is that this helps you build a reputation and image and helps you grow a reliable follower base. The earnings keep rising as followers, shares and subscriptions increase. The most popular online tutorials that you can see today are.

- Music tutorials
- Cooking tutorials
- Dance tutorials
- Art & Craft tutorials
- Academic tutorials
- Tech tutorials
- Domestic hacks and household tricks

10. Green store and Consultancy

As they days are passing by, the awareness and concern towards Earth and its environment is rising, people need to learn how the earth is being damaged by us and what can be done minimize the effects. Today there is a need to promote and use products that are green and do not harm the

Today there is a need to promote and use products that are green and do not harm the environment. Though such products are being manufactured in full swing, but access to such products is not always easy. However, if you tie up with some

Environmental organization or NGO and open green products store, then you can make these products easily available through an online one.

This step can be a great good business idea. Promotion and selling of these green products can help you garner widespread recognition since environment is an International affair. Apart from this, more and more business today are opting for green technology.

You can provide green consultancy to companies and organizations so that they can plan their green journey ahead. If you have the skill and knowledge of energy-saving and eco-friendly activities, you can start this business.

Always remember that you need to be passionate about the business you choose and must be willing to see it through to the end.

DO NOT choose a business just because it is highly in demand or switch between various jobs. You should have an undying interest in it. It will be mindless for you to start a tech tutorial as it has a high demand, while your passion lies in cooking!

This may also require you to invest an important amount of time and some money. If you are not willing to invest in your business, then you probably don't have what it takes to succeed. Always remember that "Rags to riches" is never a stroll through the park.

It always takes time and you will have to spend a minimal amount of money to expect profits and favorable returns.

Criminal Liability of Corporate Officials/Directors in India

In this day and age of scams, crime by corporate entities throws a lot of challenges at multiple levels. The level of crime may be extraordinary owing to the magnitude, powers and reach of such corporations as opposed to an individual committing any crime. Once it is found that a corporation has committed a crime, the next question is whether corporations can be held guilty of such crimes since they do not have minds of their own.

For a long time, corporations in India were not held liable for criminal offences due to the requirement of mens rea or the intention to commit the offence and inability to award imprisonment or arrest, etc. However, corporations are no longer immune.

Supreme Court on Liability of Corporations and its Officials: It is now clear that the criminal intention of the company's directors or officials can be attributed to the company to make the company liable. However, the question then arises whether the reverse is possible – i.e. whether the officials of the company can be held responsible for acts of the company?

This question was recently answered by the Supreme Court of India in Sunil Bharti Mittal v. Central Bureau of Investigation ((2015) 4 SCC 609).

The Apex Court in this case in no uncertain terms held that an individual who has perpetrated the commission of an offence on behalf of a company can be made accused, along with the company. However, to make an individual liable, there must be sufficient evidence of his active role coupled with criminal intent and/or a provision must be specifically incorporated into the statutory regime that attracts the doctrine of vicarious liability. It may thus be noted that when the company is the offender, vicarious liability of the directors cannot be imputed automatically, in the absence of any statutory provision to this effect.

Who can be held liable? It is worth clarifying that a person cannot be held liable merely on the basis of the designation. No presumption can be drawn against the person occupying the position of a chairman or managing director only on the basis of their position. There is no universal rule that a director of a company is in charge of its everyday affairs. A person should fulfil the 'legal requirement' of being a person in law (under the statute governing companies) responsible to the company for the conduct of the business of the company and also fulfil the 'factual requirement' of being a person in charge of the business of the company.

Certain legislations have a provision titled as 'Offences by Companies', which makes the person in charge of and responsible at the time of commission of the offence liable for that offence along with the company unless the person proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commissioning of such offence. Under the said provision, the director, manager, secretary or any other official of the company may also be held liable if it is shown that the offence was committed with his consent or connivance.

The concept of vicarious liability of corporate officials has evolved substantially over the past decade. It is worth noting that it has become a tendency to implead the senior management officials of the company along with the company to exert pressure on the company to settle. In a lot of instances, such senior officials may also be summoned by the

investigating authorities. There is almost unanimous judicial opinion that a clear case needs to be spelt out against the person in the complaint before fastening criminal liability.

Furthermore, in case the court is required to issue summons, there has to be strict compliance with statutory requirements. Summoning is a serious issue and criminal law cannot be set in motion as a matter of routine, and summons should only be issued after recording reasons in writing. The Indian Courts have so far been very cautious in their approach and have generally protected the corporate officials from harassment by the investigating agencies unless there is enough material against the official concerned.

It may be interesting to note that the above provision attaching liability to the directors, etc., is similar to the law in the UK to some extent wherein the corporate officials can be held liable if they consented, connived or neglected in their duties. Consent and connivance both presuppose knowledge.

Similarly, in the US, the corporate officials are held liable under the 'Responsible Corporate Officer Doctrine', which holds a corporate officer criminally liable for the criminal violations committed by a subordinate where the said officer occupies a position of responsibility and authority in the company and has the power to prevent such a violation, but fails to do so.

However, it must be noted that as opposed to the US and UK, there is no provision for Deferred Prosecution Agreements (DPA) in India, wherein the company can reach any settlement with the prosecution to avoid criminal sanctions.

To the comfort of corporates, so far we have seen that courts have taken a balanced view. They have not shied away from acting against the senior official if it is established that the official was responsible for the crime. At the same time, however, they have protected senior officials where their personal involvement could not be proved. Having said that, the need of the hour is to take certain deterrent measures to impose costs or punish complainants for initiating frivolous proceedings.

Corporate News

- Procter & Gamble Co agreed to acquire the consumer health business of German pharmaceuticals company Merck KGaA for about 3.4 billion euros (\$4.21 billion) in cash.
- Infosys Ltd., India's second-largest technology firm by revenue, has agreed to acquire US-based digital creative agency Wongdoody for INR 4,900 Mn (\$75.04 million) in cash.
- Reliance Industries Ltd. (RIL) will invest INR 11,750 Mn (\$180 million) in ed-tech startup Embibe, as India's biggest private-sector company by revenue.
- Gurugram-based Nayati Healthcare and Research (P) Ltd., which is promoted by former corporate lobbyist Niira Radia, has picked up a majority stake in a north India-based hospital chain. Nayati has picked up a 51% stake in Vimhans Primameds Hospitals for INR 2,300 Mn.
- Tata Chemicals Ltd. has entered into an agreement to acquire the precipitated silica business of Allied Silica Ltd. for up to INR 1,230 Mn(\$18.9 million) in an all-cash deal.
- Ballarpur will sell Sabah Forest to Malaysia's Pelangi Prestasi Sdn Bhd for about INR 20,150 Mn (\$310 million).
- Indian auto-component maker Motherson Sumi Systems Ltd. has agreed to acquire the Netherlands-based Reydel Automotive Group for INR 13,070 Mn (\$201 million) in cash from US-based alternative investment firm Cerberus Capital Management.
- Procter & Gamble Co agreed to acquire the consumer health of German pharmaceuticals company Merck KGaA for about 3.4 billion euros (\$4.21 billion) in cash.
- Mumbai-listed Centrum Capital will sell its CentrumDirect Ltd. unit to Ebix for about INR 12,000 Mn (\$184 million).
- Essar Group has announced the sale of its key Mumbai property – Equinox Business Park — to Canada's Brookfield Asset Management Inc. at an enterprise value of INR 24,000 Mn(\$360 million).
- Southeast Asian fashion marketplace Zilingo Pte. Ltd. has raised INR 3,510 Mn (\$54 million) in a Series C round led by Belgium-based investment company Sofina, besides existing investors, German investment firm Burda Principal Investments, and Sequoia Capital India.
- Online insurance platform Coverfox has completed its INR 1,440 Mn (\$22-million) Series C funding round, which was led by International Finance Corporation, the private-sector investment arm of the World Bank.

- PE INSIGHTS Virtuous Retail South Asia Pte. Ltd., a joint venture between alternative investments firm The Xander Group Inc. and Dutch pension fund APG, has acquired a majority stake in privately held North Delhi Metro Mall (P) Ltd. (NDML) for INR 8000 Mn.
- Home-grown private equity firm ChrysCapital led INR 3,500 Mn (\$55-million) Series C funding round in Bengaluru-based school finance company Thirumeni Finance (P) Ltd., which operates under the Varthana brand.
- Bengaluru-based digital lender Capital Float has raised INR 1,440 Mn (\$22 million) in equity funding from e-commerce major Amazon India.
- Gurugram-based Balancehero India (P) Ltd., which operates mobile balance-checking app True Balance, has raised INR 1,500 Mn (\$23 million) in a Series B2 funding round from Line Ventures Corporation and other clutch of investors.
- Paytm Mall, operated by Delhi-based Paytm E-commerce Private Limited, is set to raise INR 28,925 Mn (around \$446 million) from Japanese Internet conglomerate SoftBank and existing investor Chinese e-commerce behemoth Alibaba.

Declaration

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