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## Income Tax

### Why prefer buyback over dividend?

In recent time, buybacks have been preferred by companies over dividend due to following reasons:

#### ◆ Double Taxation of Dividend:

Union Budget 2016 made dividend receipts above Rs. 10 lakh taxable at 10 per cent in the hands of investors. When a company declares a dividend, there is already a dividend distribution tax (DDT) on the payout. Besides, the dividend is paid out from the net profit, which in itself is arrived at after paying corporate taxes. So, Budget 2016 imposed additionally a tax on dividends (above Rs. 10 lakh) for high net worth investors and, therefore, made dividend payments unattractive.

#### ◆ Improved EPS Valuation:

Dividend is distributed by companies from the net profit in the form of cash payouts, and to that extent it reduces the addition to the net worth of the company and thus, its market value. However, as buyback is a reduction of the outstanding capital, it improves the earnings per share (EPS) of the company and thus, valuation.

#### ◆ Buyback acts as price stabilizer:

When a company indicates that it is willing to buy back the stock at a certain price, it generally gives a signal to the market of a fair price for the stock. However, this need not contain declines as there are instances too, of stock prices falling below the buyback price.

In view of above factors, companies have been preferring the buyback route as it is tax efficient to the extent of 9% in terms of tax incidence.

### Missed the claim in the income tax return, check out the possible remedies!

It is extremely important that income tax return is filed on or before the due date for claiming incentive deductions under the Act. However, situations may arise where a taxpayer may end up not claiming eligible deduction in the return or may claim incorrect amount of deduction in the income tax return. In such a situation, the taxpayer may want to make fresh claim or modify its claim respectively. In such an event, the possible remedies could be as under:

### ***i. Revised Return***

The most feasible option before the taxpayer is to make fresh claim or modify the claim by filing a revised return. Revised return can be filed if taxpayer has made either any omission or any wrong statement in the original return. The time limit for filing revised return is before the end of the relevant assessment year or the completion of assessment, whichever is earlier.

### ***ii. Claim during the assessment proceedings***

In a situation where claim is not made by filing revised return, taxpayer may make claim during the course of the assessment proceedings. However, the tax officer may not admit fresh claim made during the course of the assessment proceedings by relying on the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. v. CIT [2006] 157 Taxman 1/284 ITR 323 (SC). The apex court in Goetze (India) Limited had held that the taxpayer cannot make a claim for deduction during the course of the assessment proceedings except by way of filing a revised return.

In this connection, reference may be made to the CBDT Circular No.14-XL (35) dated 11 April 1955. In the aforesaid Circular, CBDT has clarified that the officers of the department must not take advantage of the ignorance of taxpayer as to his right. The officers should draw attention of taxpayers to any refunds or reliefs to which they appear to be clearly entitled but which they have omitted to claim for some reason or other.

Reference is also made to Article 265 of the Constitution of India, which states that revenue department can collect only legitimate taxes due from the taxpayer.

In cases, where a taxpayer wants to modify a claim already made in the return, the decision of Goetze India Limited may not apply based on various judicial precedents Pr. CIT v. Oracle (OFSS) BPO Services Ltd. [2019] 102 taxmann.com 396 (Delhi High Court); Solaris Bio Chemicals Ltd. v. Dy. CIT [2012] 25 taxmann.com 182/53 SOT 195 (URO) (Delhi Tribunal); CIT v. Natraj Stationery Products (P.) Ltd. [2009] 177 Taxman 168/312 ITR 22 (Delhi High Court).

Reference can also be made to the judicial precedents Manohar Reddy Basani v. ITO [2018] 94 taxmann.com 321/171 ITD 279 (Hyderabad - Tribunal); CIT v. Abhinitha Foundation (P.) Ltd. [2017] 83 taxmann.com 100/249 Taxman 37/396 ITR 251 (Madras High Court) wherein it was held that deduction cannot be denied to the taxpayer merely because it was not claimed in the income tax return.

### ***iii. Claim during the appellate proceedings***

It is pertinent to note that the Hon'ble Supreme Court in the case of Goetze (India) Ltd. has observed that its decision is limited to the power of the assessing authority to admit new claim made during the course of the assessment proceedings and does not impinge on the power of the Income-tax Appellate Tribunal. The courts in various judicial precedents have held that a taxpayer may raise additional claims before the appellate authorities i.e. Commissioner of Income tax (Appeals) CIT v. Pruthvi Brokers & Shareholders (P.) Ltd. [2012] 23 taxmann.com 23/208 Taxman 498/349 ITR 336 (Bombay High court); CIT v. Gokuldass & Co. [2002] 122 Taxman 849/253 ITR 633 (Rajasthan High Court) or Income tax Appellate Tribunal National Thermal Power Company Ltd. v. CIT [1998] 229 ITR 383 (Supreme Court); Jute Corpn. of India Ltd. v. CIT [1990] 53 Taxman 85/187 ITR 688 (Supreme Court); Pruthvi Brokers & Shareholders (P.) Ltd. (supra); Orissa Cement Ltd. v. CIT [2001] 117 Taxman 625/250 ITR 856 (Delhi High Court); Ooppootil Kurien & Co. (P.) Ltd. v. CIT [2003] 132 Taxman 530/[2004] 266 ITR 409 (Kerala High Court) and these appellate authorities have the powers to consider the claim raised by the taxpayer.

Hence, even if a taxpayer fails to make claim in the return, the same may be made by filing a revised return or during the course of assessment/appellate proceedings. The best alternative may be to file the revised return, wherever possible, as other alternatives may lead to prolonged litigation.

### **Sustainability of additions based on suspicion, conjecture and surmises**

In order to find out whether addition made by the AO was based on suspicion, conjecture, surmises or imagination one had to examine the material which became the basis for addition. Such addition could be contested on the ground that:

- (i) evidence submitted by the assessee had been ignored, and no contrary material had been found,
- (ii) there was no relevant material having nexus with the issue in hand;
- (iii) the missing link between material and inference had been filled by the AO through imagination or suspicion;
- (iv) material having no connection with the inference had been used. If it was removed, there will not be any effect on inference,
- (v) evidence and statements having relevance to the issue were ignored. On the other hand, statement of persons having no locus standi were considered;
- (vi) facts like payment of on money or commission on accommodation entries was considered on presumption basis;
- (vii) books of account and vouchers were rejected without finding any defect;
- (viii) estimations of profit were made on guess work.

### **CBDT to share data with GST dept. to trap tax evaders**

*F.No. 225/105/2019/ITA.II, dated 30-04-2019*

The Central Board of Direct Taxes (CBDT) has notified that Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), New Delhi as the specified income-tax authority for furnishing information regarding assesseees to the Nodal Officer, Goods and Services Tax Network ('GSTN').

The specified income-tax authority shall form an opinion that sharing of information is necessary for the purposes of enabling the specified authority in GSTN to perform its functions under the Goods and Services Tax. The following informations are to be furnished by the specified income-tax authority:

- 1) Request based exchange of data - The important financial fields captured in the Income Tax Returns (ITRs) shall be shared with the GSTN.
- 2) Spontaneous exchange of data.
- 3) Automatic exchange of data.

### **Income tax Laws applicable from April, 01, 2019**

#### **1. Section 87A rebate**

The amount of tax rebate under Section 87A has been increased from Rs. 2,500 to Rs. 12,500. Further, it shall be available to a resident individual whose total income does not exceed Rs. 5,00,000.

#### **2. Standard deduction from salary**

The limit of standard deduction for the salaried class taxpayers has been increased from Rs. 40,000 to Rs. 50,000.

#### **3. No deemed rental income on having two residential house properties**

If an individual owns more than one self-occupied house property then only one house property as per his choice is treated as self-occupied and its annual value is computed as nil. The other house property is deemed to be let-out as per section 23 and a notional rent is computed and charged to tax under the head 'Income from House Property'.

Section 23 has been amended with effect from 1/4/2019 to provide relief to the taxpayers by allowing them an option to claim nil annual value in respect of any two houses declared as self-occupied.

Though from F.Y. 2019-20, an assessee can claim annual value as nil in respect of two-self occupied house properties. However, there is no change in aggregate limit for deduction in respect of interest on housing loan. The aggregate deduction for interest on housing loan for both houses cannot exceed Rs. 30000 or Rs. 2,00,000.

#### **4. Section 54 relief extended to 2 residential houses**

Any long-term capital gains, arising to an Individual or HUF, from the sale of residential house property is exempted to the extent such capital gains are invested in another residential house property. The taxpayer is allowed to invest only in one residential house in India to claim section 54 relief.

From financial Year 2019-20, an assessee shall be able to claim exemption under section 54 even if he invests in two residential houses in India. However, this benefit shall be available where the amount of the capital gain does not exceed two crore rupees. Further, if the assessee exercises this option, he shall not be subsequently entitled

to exercise the option for the same or any other assessment year, *i.e.*, the assessee can exercise this option only once in a lifetime.

#### **5. TDS on interest income**

Section [194A](#) deals with deduction of TDS on interest income other than interest on securities like interest on Fixed Deposits.

Section 194A has been amended to ease the burden of compliance by way of increasing the threshold limit from Rs. 10,000 to Rs. 40,000 for deduction of tax at source on interest income, other than interest on securities, paid by a banking company, co-operative society or a post office

#### **6. TDS on rental income**

The threshold limit for deduction of tax at source under section [194-I](#) on rental income has been increased from Rs. 1,80,000 to Rs. 2,40,000.

#### **7. Amendment to DTAA with Singapore and Mauritius**

Protocols with Mauritius and Singapore were signed in year 2016 to tax capital gains. The protocol gave India the right to tax capital gains on transfer of shares of an Indian Company acquired on or after 1 April, 2017. Up to March 31, 2019 tax rates on capital gains is charged at 50% of the prevailing domestic rates. With effect from April 1, 2019 capital gains shall be charged at full domestic tax rates.

### **Recent Case Laws Income Tax**

#### **1. Section 69A- Unexplained Money**

Where after expiry of four years from end of relevant year, Assessing Officer initiated reassessment proceedings on basis of information received from Investigation wing that 'N' Ltd. was a penny stock listed in BSE which used to facilitate introduction of unaccounted income of members in form of share capital and, assessee was one of those beneficiaries, in view of fact that there was no company by name of 'N' Ltd. which was in existence at relevant time period, impugned reassessment proceedings deserved to be quashed - **South Yarra Holdings v. Income Tax Officer, 16(1)(1)(4), Mumbai - [2019] 104 taxmann.com 216 (Bombay)**

**2. Section 194C Tds Contractors/Sub-Contractors, Payments to Catering services :** Where assessee-hospital availed catering services from 'M', in view of fact that services rendered by 'M' of cooking and serving food would fall within definition of 'work', assessee rightly deducted tax at source under section 194C while making payments to 'M' - **Commissioner of Income-tax, TDS-2, Mumbai v. Saifee Hospital Trust - [2019] 104 taxmann.com 217 (Bombay)**

#### **3. Section 194J Deduction of Tax At Source - Fee For Professional Or Technical Services**

Hospitals, in case of : Where in course of assessment, Assessing Officer opined that assessee was liable to deduct tax under section 194J in respect of payments made directly by patients to consultant doctors working in hospital, since there was no tangible evidence and material on record to show that any amount of fees was credited in doctors' account or paid to doctor by assessee, impugned order passed by AO was not sustainable - **Commissioner of Income-tax, TDS-2, Mumbai v. Saifee Hospital Trust - [2019] 104 taxmann.com 217 (Bombay)**

**4. Section 9 Income - Deemed to Accrue or Arise In India: Business profit - Transactions with head office :** Interest paid by Indian branch of foreign bank to Head Office is neither deductible in hand of Indian Branch nor chargeable to tax in hand of Head Office and overseas branches as they constitute a single entity - **Credit Suisse AG v. Deputy Commissioner of Income-tax (International Taxation), Mumbai - [2019] 104 taxmann.com 339 (Mumbai - Trib.)**

**5. Section 10(37) Interest on enhanced compensation :** Interest received by assessee on enhanced compensation for acquisition of agricultural land by Government was exempt from tax under section 10(37) -

*Opinder Singh Virk Pravesh Kumar Sharma v. Income Tax Officer, Ward-2, Karnal - [2019] 104 taxmann.com 270 (Delhi - Trib.)*

#### **6. Section 226 Collection and Recovery Of Tax - Other Modes Of**

Where tax liability itself is questioned and same is subject matter of appeal and said appeal is reserved for order, impugned order passed by revenue authority under section 226(3) calling upon assessee to pay forthwith amount due from him, cannot be sustained - *R. Panneerselvam v. Director General of Income-tax, (Investigation), Chennai - [2019] 104 taxmann.com 388 (Madras)*

#### **7. Section 194J: Fee For Professional Or Technical Services**

Hospitals, in case of : Where in terms of agreement entered into between assessee-hospital and consultant doctors, those doctors were not entitled to benefits of leave encashment, gratuity, provident fund, superannuation benefits etc. it could be concluded that there did not exist an employer-employee relationship and, thus, assessee was required to deduct tax at source under section 194J while making payments to doctors - *Commissioner of Income-tax, (TDS-1) v. Asian Heart Institute and Research Centre (P.) Ltd. - [2019] 104 taxmann.com 212 (Bombay)*

#### **8. Assessee can't escape liability u/s 69A by merely stating that unexplained money was received by his agent: Mahesh Kumar Agarwal v. ACIT - [2019] 104 taxmann.com 254 (Patna)**

Assessee was deriving income from transportation business. He was given a contract by State Government to lift Bitumen from oil companies and supply it to consignees.

In course of assessment, Assessing Officer (AO) found that contracted quantity of Bitumen was not delivered to consignees. He issued a notice to assessee to explain as to why cost of short supply of Bitumen should not be added to his total income under section 69A?

Assessee in his reply stated that he had not lifted any Bitumen and produced photocopy of delivery challan showing that consignment was lifted by 'P' carrier.

AO opined that since 'P' carrier had executed work on behalf of assessee, mere fact that payments had been received in name of 'P' Carrier, assessee could not be allowed to avoid liability arising out of non-supply of Bitumen to consignees. He thus made addition to assessee's income under section 69A.

The Patna High Court held that assessee introduced 'P' Carrier as its agent and by virtue of his authorization given in favour of 'P' Carrier, oil companies had allowed 'P' carrier to lift Bitumen. Thus, assessee could not escape liability arising out of when 'P' carrier, being an agent of assessee, did some unauthorized act. Therefore, impugned addition made by authorities below was to be confirmed.

**9. Section 56: Income From Other Sources - Chargeable As Share premium :** Where assessee allotted shares of a company held by it on premium and substantiated valuation of shares to satisfaction of Assessing Officer that same was on basis of valuation report provided by valuer of said company whose shares were held by it wherein valuer had applied Direct Cash Flow (DCF) method and said report was certified by an independent Chartered Accountant and Assessing Officer accepted such valuation, Commissioner (Appeals) was unjustified in rejecting impugned valuation or valuation method - *India Today Online (P.) Ltd. v. Income Tax Officer, Ward-12(2), New Delhi - [2019] 104 taxmann.com 385 (Delhi - Trib.)*

#### **10. Notice issued in name of deceased person isn't binding on legal heirs: ITAT**

*Aemala Venkateswara Rao v. ITO - [2019] 105 taxmann.com 14 (Visakhapatnam - Trib.)*

Assessing Officer (AO) issued notice under section 148 in the name of a dead person and the notice was received by the legal heir/wife of the assessee. The legal heir replied to the AO stating that her husband had expired and did not furnish the return of income.

Assessing Officer completed the assessment under section 144, read with section 147, in the name of the legal heir stating that there was no compliance of the notice under Sec 148. Commissioner (Appeals) confirmed order of the AO.

The Tribunal held that notice issued on a dead person was invalid and unenforceable in law. The notice issued on the dead person could not make the legal heirs binding on compliance unless a proper notice was issued on the legal heirs. The requirement of issuing a notice in the name of correct person is the fundamental requirement to acquire jurisdiction to reopen the assessment.

Therefore, the notice issued under section 148 on the dead person was invalid & liable to be quashed. Also the assessments made under section 144, read with section 147, were to be annulled.

## **Goods and Services Tax: Recent updates**

### **Now GSTR-4 is required to be filed annually & payment shall be made on Quarterly basis**

Vide notification no. 21/2019-Central Tax dated April 23, 2019, CBIC has notified that GSTR-4 is required to be filed on Annual basis by Composition Dealers & Service Providers paying GST @ 6% and the payment of self-assessed tax shall be made in Form GST CMP-08 on quarterly basis.

### **E-way bill can't be generated if the registered person has not filed return for 2 consecutive tax periods**

Vide notification no. 22/2019-Central Tax dated April 23, 2019 CBIC announces June 21, 2019 to be the date from which no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, if he has not furnished the returns for two consecutive tax periods.

### **CBIC has allowed 30 days to file all the pending returns where order for revocation of cancellation of reg. is issued**

Vide notification no. 20/2019 dated April 23, 2019, CBIC has notified that all returns due for the period starting from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration.

### **Section 54 of The Central Goods And Services Tax Act, 2017 - Refund**

Tax, refund of : Where assessee had moved online applications for refund of excess input tax credit, but no action had been taken thereon, Competent Authority was directed to take a decision on applications within one month - *Datawind Innovations (P.) Ltd. v. Union of India* - [2019] 104 taxmann.com 198 (Punjab & Haryana)

### **Recent Case Law/AAR: GST**

#### **1. Service provided for construction of dwelling unit, bundled with other facility shall constitute composite supply: Authority for Advance Rulings, West Bengal, Bengal Peerless Housing Development Co. Ltd. In re- [2019] 105 taxmann.com 58 (AAR - WB)**

The Applicant is a joint venture developing real estate projects in West Bengal. It is engaged in developing a residential housing project and supplying construction service of constructing dwelling units and is enjoying abatement, prescribed for construction service. The Applicant has sought advance ruling on whether the supply of these services constitutes a composite supply with construction service as the principal supply, and if so, whether abatement is applicable on the entire value of the composite supply as per exemption notification?

The Authority for Advance Ruling, West Bengal observed that the other services like preferential location, right to use parking space and other facilities can be enjoyed only after the supply of construction service is complete. As per the CGST Act, 2017, 'composite supply' means supply of taxable goods or services or both in the ordinary

course of business. Developers of residential complexes usually offer these services in a bundle. Although one has the option not to pay for the right to use car parking space, yet one cannot buy any other service in the bundle separately. Therefore, recipient has to buy those services only as a package, where the construction service remains the predominant element.

The Authority for Advance Ruling, West Bengal held that the Applicant providing service of construction of a dwelling unit in a residential complex bundled with other facilities is a composite supply, construction service being the principal supply.

**2. Agricultural produce services by Commission agent are exempt from GST: Authority for Advance Rulings, Rajasthan, Rajasthan Rajya Sahakari Kriya Vikraya Sangh Ltd., In re - [2019] 104 taxmann.com 415 (AAR - RAJASTHAN)**

The Applicant is providing services to agriculturists for buying their agricultural produce and selling it in open market. It also helps National Agriculture Co-operative Marketing Federation of India Ltd (NAFED) for procuring agriculture produce from farmers and supplying the same to them. It has filed an application for Advance Ruling to determine whether it is liable for charging GST on providing service for procurement of agriculture produce from farmers either itself or on behalf of NAFED?

The Authority for Advance Rulings, Rajasthan observed that an agent is a person engaged in a supply or receipt of goods or services on behalf of other, or carries on the business of supply or receipt of goods or services on behalf of principal. In this case, the applicant is also providing service of a commission agent for procurement of agricultural produce. Although the activity of commission agent is taxable, yet if such services are provided in relation to agricultural produce then those are exempted as per exemption notification under GST.

The Authority for Advance Rulings, Rajasthan held that the applicant is not liable to charge GST on providing service of procurement of agricultural produce either itself or on behalf of principal ,i.e., NAFED as the same is exempt for commission agent of agricultural produce.

**3. Providing Back office support services to foreign clients is an Intermediary Service & not zero rated supply.**

**Appellate Authority for Advance Ruling, Maharashtra, Vservglobal (P.) Ltd., In re - [2019] 104 taxmann.com 423 (AAAR-MAHARASHTRA)**

The Applicant is an Indian Company and is incorporated to provide back office administration & accounting services to overseas clients. The Applicant has sought Advance Ruling to determine whether the above services rendered by the applicant shall qualify as 'Zero Rated Supply' or not.

The Authority for Advance Ruling, Maharashtra held that services rendered by the applicant are not 'Zero Rated Supplies' and are covered under definition of 'Intermediary' as per IGST Act, 2017. The Applicant filed an appeal before the Appellate Authority for Advance Ruling, Maharashtra.

The Appellate Authority for Advance Ruling, Maharashtra observed that a person is covered under the definition of 'intermediary' as defined in the IGST Act, if he a broker or an agent who facilitates or arranges supply between two or more persons and such supplies are not made on his own account. In this case, applicant by providing back office support services to its clients, facilitates supply of goods or services or both between the overseas clients & its customers. Further, it is not providing services to its client's buyers or suppliers on his own account. Therefore, these services satisfy the condition provided for an 'intermediary'. Also, it cannot be regarded as Zero Rated Supply as the place of supply for 'intermediary' services is India.

Therefore, the Appellate Authority for Advance Ruling, Maharashtra upheld the order passed by the Authority for Advance Ruling, Maharashtra that services rendered by the applicant are not 'Zero Rated Supplies' but 'intermediary services'.

#### **4. Transfer of a business as a going concern on slump sale is exempt from GST: AAAR, Uttarakhand, Innovative Textiles Ltd., - [2019] 104 taxmann.com 436 (AAR - Uttarakhand)**

The applicant is engaged in manufacturing and selling of textile yarns, fabrics and garments. It intends to sell its business on slump sale basis with all assets and liabilities. It has sought an advance ruling to determine whether 'Business Transfer Agreement' as a going concern on slump sale basis is exempt from GST?

The Authority for Advance Rulings, Uttarakhand observed that as per GST rate notification services by way of transfer of a going concern, as a whole or an independent part, would be treated as supply of service which is exempt under GST. Transfer of a business as a going concern is the sale of a business including assets. 'Going concern' means business is live or operating and the purchaser intends to use the assets to carry on the same kind of business as a seller. In this case, the purchaser intends to carry on the same kind of business as that of the applicant. Held that transfer of applicant's business on slump sale basis to be treated as a going concern and exempt from GST.

#### **5. GST on DFIA:**

AAAR set aside the ruling of AAR & pronounced that No GST shall be payable on buying/selling of DFIA: AAAR, Maharashtra, Spaceage Syntex (P.) Ltd., In re - [2019] 104 taxmann.com 422 (AAAR-Maharashtra)

#### **Industrialists Came Forth with Crucial Issues for GST Council 35th Meet**

The arrival of the new government will bring along the changes in GST as well. The alterations to be introduced in GST will be formalised and finalised in the upcoming 35th GST council meet which will take place the next month. With the hope to get the issues resolved at a faster pace, some industry experts have come forward with the matter of contention regarding anti-profiteering, cross-charge of employee cost, to be discussed in the meeting.

"The Council is likely to meet before the General Budget so that its views could be included in the Budget," a senior Finance Ministry official said.

Officials do understand the immediate need to iron out the issues so they have started making a detailed note on recommendations from various industries bodies for the new government so that the matter could be taken up by the GST Council on the hair-trigger basis.

**Major issues, highlighted by the industry experts** which need resolution on priority basis encompass:

- i. inadequate precision in the concept of anti-profiteering,
- ii. cross charge of employee cost such as salaries, overheads etc,
- iii. eligibility to avail ITC relies on vendor's compliance which affects working capital of the assessee,
- iv. charging interest on false Input Tax Credit (ITC) claim,
- v. dual tax on ocean freight charged on the importers,
- vi. ITC on services accompanying immovable property.

Understanding the urgent need of resolution of key issues like a cross charge of employee costs, double taxation on ocean freight, ambiguity on the computation of profits for anti-profiteering etc. Harpreet Singh, Indirect Tax Partner at KPMG said "Issuance of a Master Circular on all key open issues, similar to the one issued under the erstwhile service tax regime, perhaps could be a good idea for further streamlining the new regime,"

As far as the anti-profiteering issue is concerned, industry bodies are not endowed with precise information about the clause which lead to the bewilderment when it comes to fixing the selling prices for goods. The law needs to be improved and encompassed with the factors that offer clarity on the costs spent on account of shifting from GST to non-GST era. It also doesn't specify the ways to pass on the perks by loss-making units. Considering all these facts, industrialists are emphasizing on the elaborating the provisions of the anti-profiteering clause so that a precise method of computing the benefit and tool for passing the said benefit can be adopted.

Cross charge of employee costs like salaries and overheads is another important issue which needs prompt settlement. The issue was accentuated when an Authority for Advance Rulings (AAR) said that activities served by corporate office based employees for the branch office situated in a different State (distinct person) shall be considered as a supply of service and thus GST would be exercised upon it.

It also states that the value of such supply will incorporate the cost of employees. Industry bodies insist solution about this and want that employee cost should not be cross charged from branches or other units running under a different GSTIN.

Industrialists hope to acknowledge the GST notifications and implementations of changes within the standard time period.

## **Digital Accounting and Artificial Intelligence:**

### **What Is Blockchain?**

Blockchain is a revolutionary technological innovation offering immense potential for re-engineering economic models to deliver productivity gains to multiple industries, from financial sector to energy markets, intellectual property management, supply chains, public sector, and beyond.

Implementing new infrastructure in blockchain landscape will require collaborative action to bring about changes to existing regulations, standards of practice, and creation of new legal and liability frameworks. Chartered Accountants can prove to be a powerful catalyst for adoption of blockchain-based financial solutions by organisations, that can provide basis for a technological leap.

This technology is still new, but the potential impact it can have on business and finance is exciting, and immense.

### **Participants and their roles in BlockChain Network:**

- **Blockchain user:** A participant (typically a business user) with permissions to join the Blockchain network, and conducts transactions with other network participants. Blockchain technology operates in the background, so the Blockchain user has no awareness of it. There are, typically, multiple users on any one business network.
- **Regulator:** A Blockchain user with special permissions to oversee the transactions happening within the network. Regulators may be prohibited from conducting transactions.
- **Blockchain developer:** Programmers who create the applications and smart contracts that enable Blockchain users to conduct transactions on the Blockchain network. Applications serve as a conduit between users and the Blockchain.
- **Blockchain network operator:** Individuals who have special permissions and authority to define, create, manage, and monitor the Blockchain network. Each business on a Blockchain network has a Blockchain network operator.
- **Certificate authority:** An individual who issues and manages the different types of certificates required to run a permissioned Blockchain. For example, certificates may be required to be issued to Blockchain users or to individual transactions.

Blockchain is a distributed ledger that digitally records transaction history between parties. Information gets stored in blocks of data that are “chained” together. Each data block added to a chain is date stamped, unique and encrypted, which makes it unalterable. Information in a blockchain can’t be hacked or counterfeited and is immediately “trusted,” and therefore, accepted by anyone with access to your chain.

Blockchain technology helps companies implement smart contracts—computer code hosted on a blockchain that defines and executes the terms of an agreement between parties.

In the typical scenario of shipping goods, numerous parties are involved—shippers, 3PLs, carriers and consignees. For every shipment, transactions and documents get executed and saved—BOLs (bills of lading), invoices, PODs (proof of delivery) and more. Each transaction becomes a permanent ledger record that’s easily validated by anyone with access to the chain. Using data from a blockchain, the network members can validate

the block or payload of the transaction, creating a transparent and efficient system for managing all documents and transactions involved in the logistics and supply chain process.

### **Ten Benefits of Blockchain in Logistics:**

With input from its member companies, BiTA (Blockchain in Transport Alliance) has identified several immediate benefits of implementing blockchain technology within the transportation and logistics industry:

- 1. Monitors Performance History:** Monitoring the performance history of carriers and other suppliers through a blockchain framework allows parties to see evidence of past performance, including on-time deliveries, on-time pickups and more.
- 2. Maintains History of High-Value Assets:** Having a trustless and accurate record of asset history is imperative to ensure it complies with safety standards from factory floor to delivery.
- 3. Improves Quality Assurance:** Every authorized member involved in a transaction can access critical data to validate its milestones. Evaluating freight at pick-up and delivery locations reduces unsubstantiated disputes.
- 4. Improves Compliance:** Blockchain and ELDs (electronic logging devices) are a natural pair. ELDs can send a stream of driver behavior and route data to a blockchain in real-time. Pairing this information with traffic data and weather data gives carriers and shippers a tool to improve routing.
- 5. Monitors Real-Time Freight Capacity:** In trucking, available capacity can change by the hour. Through blockchain transparency, you will know when and where capacity opens.
- 6. Improves Payments and Pricing Processes:** Payment processing and settlement is secure in a blockchain, and transaction information is easily accessible, providing shippers with more data to determine rates.
- 7. Detects Fraud:** Every transaction that takes place on a blockchain is visible to everyone on the network. Nothing can be removed without it being detected. This transparency obviates the areas where fraud occurs, such as double brokering. Through the common practice of notarization and nonrepudiation, shippers can securely track the creation and modification time of a document or transaction — confirming authenticity.
- 8. Prevents Theft:** A blockchain can contain detailed information and rules, such as photo ID requirements for pick-up and delivery. Added precautions improve security, reduce freight theft and enable secure transfer of titles.
- 9. Proves Provenance:** Provenance ensures that every shipped good includes a digital “passport” that proves its authenticity. These so-called passports include essential data such as where and when the product was manufactured and what steps it took throughout its journey.
- 10. Allows You to Issue Smart Contracts:** The ability to issue smart contracts is considered by many to be the Holy Grail of blockchain technology. Smart contracts are enormous time and money savers. Says Entrepreneur, “With smart contracts, agreements can be automatically validated, signed and enforced through a blockchain construct.”

### **Applications of Artificial Intelligence/Machine Learning in various industries:**

Artificial intelligence, machine learning, and deep learning are becoming a disruptive force that is redefining today’s world. With applications ranging from heavy industry to education, the importance of AI technology is being felt across a broad spectrum of industries. Are you feeling electrified to know about some cool applications of AI? Here are five fast-growing industries that are tremendously reaping the benefits of AI:

**1. Education:** Education is the backbone of a nation. Isn’t it? AI technology is improving education systems by replacing traditional techniques with personalized, adaptive learning to tailor students’ strengths & weakness along with providing extra resources for weaker ones. Augmented Reality (AR) and Virtual Reality (VR) are the realities of immersive learning. AR, a type of software uses device’s camera to overlay digital aspects onto the real world, facilitates teachers and trainers in performing tasks, they previously cannot, in a safe environment. On the other hand, VR takes this one step further by creating a new 360 degree view digital environment. It allows students to interact directly with study material by using e-learning resources on mobile devices.

**2. Healthcare:** Doctors are using AI-based programs in diagnosis, treatment, patient monitoring, and care. The latest advancement in this field is Google’s Medical Brain, enabled with a new type of AI algorithm, being used

to make predictions about the likelihood of death among patients. AI is hugely helping laboratory segment of healthcare. Moreover, ML enabled laboratory robots can study new molecules and reactions.

**3. Automobiles:** Driverless cars or self-driving cars are not sci-fi things anymore. With the advancement in AI technology, it becomes a reality now. AI-enabled autonomous car technology is already being developed by Google, BMW, Tesla, and Mercedes. In India, Tata ELEXSI has developed an autonomous vehicle middleware platform named 'Autonomai' which is enabled with deep learning and AI capabilities. It's not far when we will see driverless cars on Indian roads. Are you interested to see? Taking it to another level, how do you feel if you would be able to travel in air daily? Kitty Hawk, the secretive flying-car startup that's funded by Alphabet CEO Larry Page, builds Cora with the vision and dream of making people able to travel by air daily.

**4. E-Commerce:** In this era of internet and e-commerce, all have experience of online shopping. Am I right? But, have you ever realized that sometimes we buy the stuff that is not required at all or we seldom use? If yes, then we are in the trap of e-commerce websites. Selling the stuff even before you realize the need for it, is the new strategy of e-commerce companies. They achieve this via attractive deals, coupon codes, and discounts, based on our personal preferences and various other factors. It is generally called Purchase recommendations or in other words intuitive selling which is purley based on AI and ML algorithms.

On the other hand, Amazon go is redefining the way of doing shopping in supermarkets by using AI, computer vision, and deep learning algorithms. It adds the items automatically in your virtual cart and charges on Amazon account once you leave the store. So, no more line and no checkouts. Amazing!

**5. Digital Marketing:** What can be one of the biggest dreams of modern-day marketer? Most probably, it can be marketing to the audiences across demographic at the click of a button. Imagine how effective your marketing becomes if most of the time-consuming tasks such as identifying right perspective, generating targeted messages, segmenting as well as targeting audiences, selecting relevant visuals, building a winning content strategy and scheduling the release could be driven without human intervention!

## **Miscellaneous**

### **MCA amends norms for removal of Cos.'s name from register of Cos.**

*Notification No. [F.No.1/28/2013-CL-V (Part)], Dated 08.05.2019*

The Ministry of Corporate Affairs (MCA) has amended the Companies (removal of Names of Companies from the Register of Companies) Rules, 2016 wherein the fee for filing an application for removal of name from register of companies has been increased from INR 5000 to INR 10,000. Along with that, it has been specified that the company must file all the pending/belated returns before filing the application for striking off its name from the register to the MCA.

### **Bar Council of Delhi bars the Big Four KPMG, PwC, EY and Deloitte from practicing law**

The Bar Council of Delhi has directed the Big Four Accounting Firms – KPMG, Price Water House Coopers, Ernst & Young and Deloitte India to refrain from indulging in any practice which would amount to practising law until further orders.

The Bar Council has also directed them to give a list of all the advocates, who have been engaged by them, in any capacity, in any of their offices at any place.

The order was passed by the Delhi Bar Council in a complaint made by President of The Society of Indian Law Firms, Senior Advocate Lalit Bhasin. Bhasin has alleged that although all these firms are accounting firms, they are also engaged in law practice, which is not legally permissible.

While Chartered accountants are governed by the Chartered Accountants Act, legal practice is governed by the Advocates Act. Yet, the accounting firms have been encroaching into the domain of legal practice by offering non-litigation services, it has been argued. Such a practice of hiring law graduates to provide non-litigation legal solutions is in contravention of the Advocates Act.

As per an Economic Times report, globally, the Big Four offer full-scale legal services in some geographies and ‘alternate legal services’ in others. In November 2018, an expert panel constituted by the ministry of corporate affairs had also recommended an amendment to the Advocates Act to allow audit firms to offer legal services.

### **RBI likely to cut interest rate again in June: Report**

The Reserve Bank of India (RBI) is likely to cut interest rates one more time in June before rising inflation pressures and elevated fiscal deficits leave little room for further accommodation in rest of the year, IHS Markit said Wednesday. RBI had cut interest rate by 25 basis points each in February and April to boost economic growth. In a report on the forecast for global monetary policy actions and resulting economic impact, the London-based global information provider said RBI is likely to tighten its monetary policy stance in early-to-mid 2020.

### **Payments Banks: How RBI's move for financial inclusion quickly went downhill**

Durable relationships are rarely transactional but frequent transactions could form the bedrock of solid relationships – and help achieve the federal objective of financial inclusion. Policymakers at Mint Road were guided by this noble thought when they granted payment bank licences four years ago to familiarise India with transaction modes that didn’t use currency bills. In theory, the central bank was doing what was needed to extend organised banking services to those left unbanked by traditional lenders.

### **Accused convicted on dishonoring of cheque when he acknowledged debt and issued new cheque**

#### **Rohitbhai Jivanlal Patel v. State of Gujarat - [2019] 105 taxmann.com 46 (SC)**

In given case, the complaints were lodged complaint cases for dishonouring of cheques issued by accused who took a friendly loan of Rs. 22.5 lakhs. The accused was acquitted by Trial Court for reasons that complainant had failed to prove beyond reasonable doubt that cheques dishonoured were issued as part payment of loan amount. The Apex Court noted that accused could not deny his signature on cheques in question. He had further acknowledged debt on a stamp paper and it could be presumed that said cheques were drawn for consideration and same was meant for holder of cheque. Thus, accused was to be convicted under section 138 of the Negotiable Instrument Act.

**Jurisdiction of ICAI:** The ICAI has jurisdiction to examine any conduct (including alleged sexual harassment) by a CA that would tend to bring disrepute to the profession or the Institute. The fact that the matter is pending trial before the Criminal Court is not relevant because the standards of proof are different. The ICAI may or may not await the outcome of the trial depending on the circumstances (Gurvinder Singh 259 TM 311 (SC) followed) **Lalit Agrawal vs. ICAI (Delhi High Court)**

### **India IT & business services market to reach \$14.3 billion by 2020: IDC**

India's IT and business services market is likely to grow by over eight per cent to reach USD 13.1 billion by the year-end and expand further to USD 14.3 billion by 2020, according to research firm IDC. Of the total market, IT services segment contributed about 76 per cent in the second half of 2018, it said in a report. "The IT services market is slated to reach USD 10 billion by December 2019, growing at 9.1 per cent annually.

### **US talent crunch takes midcap IT to Canada, Mexico**

Zensar Technologies NSE 2.08 % plans to open a new delivery centre in Canada later this year to service the North America market. Over the next 12 months, the company plans to add about 100 people at this location, in addition to doubling the number of people at the centre in Mexico, which it opened last year, said CEO Sandeep Kishore. “We will hire more people in North America depending on client requirements on a project basis,” he said.

### **Auto slowdown may hit banks’ retail growth**

Indian banks' retail growth may take a hit due to slowdown in motorcycle and car sales and liquidity tightness in the market, say top bankers and rating agencies as growth in personal vehicle loans, which make a sizeable part of banks' overall retail credit, nearly halved in the last fiscal. Latest data from the RBI shows that the personal vehicle loan portfolio made up by cars and two-wheeler loans grew 6.5% in fiscal 2018-19 as against 11.3% in the previous fiscal.

**Banking frauds: IBA seeks applications to make forensic auditors' list**

The Indian Banks' Association (IBA) on Tuesday invited applications for the empanelment of firms to conduct forensic audit of frauds in the banking industry. The industry body plans to rope in firms for two separate categories of frauds — up to Rs 50 crore and above Rs 50 crore. According to a document put out by the IBA, auditors whose terms are expiring on August 27, 2019 will have to send in applications through this route.

**India's e-commerce potential greater than China's, says retail expert:**

India has more market potential for the e-commerce industry than China has, according to renowned retail futurist and author Doug Stephens. As global retail and e-commerce giants Walmart and Amazon fight it out in the country, India is becoming the primary battleground, elaborated Stephens, adding that if companies own India and China markets, then markets like the US don't matter.

***Declaration***

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