

Manubhai & Shah LLP

Chartered Accountants

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NEWSLETTER

April 2020



TABLE OF CONTENTS

The Newsletter includes articles as well as legal updates

- Income tax updates
- Vivad Se Vishwas Scheme
- GST updates
- MCA updates
- SEBI updates
- RBI updates
- Other updates



INCOME TAX UPDATES

Particulars	Relaxation given
Due date of various compliances falling between March 20, 2020 to June 29, 2020 extended to June 30, 2020	<p>Completion of any proceedings, passing of order or issuance of notice etc. by the authorities</p> <p>Filing of any appeal, reply or application or furnishing of any report , document, return, statement etc.</p> <p>Income tax returns for F.Y. 18-19</p> <p>Aadhaar – PAN linking</p> <p>Making of investment, deposit, payment, acquisition etc. for claiming deduction, exemption etc.</p> <ul style="list-style-type: none"> - Capital gain Section 54 to 54GB - Chapter VI-A-(B) – Deduction in respect of certain payments. 80C, 80G, 80D, etc
Payment of any dues, due date of which is falling between March 20, 2020 to June 29, 2020 and paid on or before June 30, 2020	<p>Reduced rate of interest of 9% p.a. shall be charged for such delay in payment of Advance tax, TDS, TCS, Equalization levy, STT, CTT.</p> <p>No penalty or prosecution for such delayed payment</p>
Lower/Nil deduction / Collection of TDS/TCS certificate for F.Y. 2020-21	<p>Assessee having certificate for F.Y. 2019-20 and applied for F.Y. 2020-21 Certificate for F.Y. 2019-20 will be valid up to June 30, 2020 or disposal of application by officer w.e. is earlier.</p> <p>Assessee having certificate for F.Y. 2019-20 and not applied for F.Y. 2020-21 yet Certificate for F.Y. 2019-20 will be valid up to June 30, 2020 and application is to be made for further period.</p> <p>Assessee does not having certificate for F.Y. 2019-20 and not applied for F.Y. 2020-21 yet Prescribed procedure for application is to be followed. Application and confirmation will be done through E-mail.</p> <p>Payment to Non-resident (including foreign companies) having PE in india and not covered by first / second case TDS @10% including SC and Cess for payment till June 30, 2020 or disposal of application w. e. is earlier.</p>
15G/H for F.Y. 2020-21	If valid 15 G/H for F.Y. 2019-20 have been submitted then the same will be valid till June 30, 2020
Donation to PM CARES FUND	Donation to Prime Minister's Citizen Assistance and Relief in Emergency Situations fund (PM CARES FUND) is allowed as 100% deduction u/s 80G without qualifying limit.

Reference: Taxation and other laws (relaxation of certain provisions) ordinance, 2020 dated March 31, 2020] (Order u/s 119 dated March 31, 2020), (Order u/s 119 dated April 03, 2020)



VIVAD SE VISHWAS SCHEME

BACKGROUND

The Finance Minister introduced “The Direct Tax Vivad Se Vishwas Bill 2020” in the Lok Sabha after discussions with the various stakeholders. Without much discussion, “The Direct Tax Vivad Se Vishwas Act, 2020” (herein referred to as ‘Act’) has been passed by the Lok Sabha on 4th March, 2020. In this Article some of the important provisions of this Disputed Income tax Settlement Scheme (Scheme) contained in the above Act are discussed.

WHO CAN TAKE THE BENEFIT OF THE SCHEME:

The following persons can take the benefit of this Scheme:

- Appeals/writs filed on or before 31.01.2020 and pending.
- Orders for which time for filing appeal has not expired on 31.01.2020
- Case pending before Dispute Resolution Panel (DRP) on 31.01.2020
- Cases where DRP issued direction on or before 31.01.2020 but no order has been passed.
- Cases where assessee filed revision (Section 264) on or before 31.01.2020.
- Search case if the disputed demand is less than Rs. 5 Crore for a particular financial year.
- The appeals/writs filed by the taxpayers or the department.
- Disputes where the payment has already been made shall also be eligible.
- Cases in arbitration in India or Abroad.

WHO IS NOT ELIGIBLE TO TAKE BENEFIT OF THE SCHEME:

In respect of the following cases an assessee cannot take the benefit of the Scheme.

- Search cases if disputed tax is more than Rs. 5 Crore.
- Prosecution cases under the Income-tax Act or IPC filed by the Department.
- Cases relating to undisclosed foreign income and assets.
- Cases completed on the basis of information from foreign countries as per section 90 or 90A.
- Cases covered under offense under IPC, the Unlawful Activities (Prevention) Act, 1967, NDPS Act, 1985, PC Act, 1988, PMLA Act, 2002, COFEPOSA Act, 1974, Prohibition of Benami Property Transactions Act, 1988 and Special Court Trial in Securities Act, 1992.

MEANING OF DISPUTED TAXES, PENALTY, INTEREST OR FEE:

The Scheme applies to Disputed Taxes, Penalty, Interest or Fee in respect of which the matters are pending before any Appellate Authority. These terms are defined as under:

a. Disputed Tax:

This term means the Income tax, including Surcharge and Cess payable by the assessee under the provisions of the Income tax Act computed as per the orders received by the respective Appellate Authorities.

b. Disputed Penalty:

Disputed Penalty means Penalty determined in any case under the provisions of the Income tax Act where (a) such penalty is not levied or leviable in respect of the disputed income or disputed tax, or (b) an appeal has been filed in respect of such penalty.

c. Disputed Interest:

Disputed Interest means the interest determined under the provisions of the Income tax Act, where (a) such interest is not charged or chargeable on the disputed tax, or (b) an appeal has been filed in respect of such interest

d. Disputed Fee:

Disputed Fee means fee determined under the provisions of the Income tax Act in respect of which appeal has been filed. It may be noted that Fee for late filing of Return of Income or other statements can be charged by the A.O. under sections 234E or 234F. However, there is no provision for filing any appeal before any Appellate Authority. Therefore, fee charged under these sections can be challenged only before the CIT under section 264 or in a Writ Petition before the High Court.

AMOUNT PAYABLE TO SETTLE DISPUTED TAX LIABILITY UNDER THE SCHEME:

The assessee will have to make payment of the following amount as provided in Section 3 of the Act.

S.N.	Nature of tax arrears	Option I	Option II
		Amount to be paid on or before 30.06.2020	Amount to be paid on or after 30/06/2020 till closure of the Scheme
1	Tax Arrears relating to disputed tax, interest chargeable or charged and penalty leviable or levied on such disputed tax.	100% of Disputed Tax	Amid the COVID-19 pandemic, the government has extended the deadline for settling tax disputes under the Vivad se Vishwas scheme without paying any interest and penalty to 30/06/2020 from 31/03/2020. However, no further clarifications have been made so far for the payments to be made after 30/06/2020.
2	Tax arrears relating to disputed interest, disputed penalty or disputed fee.	25% of such disputed interest, penalty or fee	
3	Tax arrears relating to disputed tax, interest penalty determined based on search u/s 132 / 132A of the Income Tax Act.	125% of the disputed tax. However, 25% of the disputed tax cannot exceed aggregate total demand.	

In following cases, the amount payable shall be 50% of the amount calculated as mentioned in above table:

- Where an Appeal / Writ/ SLP is filed by the Income tax Authority on any issue before the Appellate Authority.
- Where appeal before CIT(A) / objections before DRP on any issue has been decided by ITAT in favour of the assessee and the same is not reversed by the High Court or the Supreme Court.
- Where the appeal filed against ITAT order on any issue has been decided by the High Court in favour of the assessee and the said order is not reversed by the Supreme Court.

PROCEDURE TO BE FOLLOWED UNDER THE SCHEME:

- Taxpayer needs to file a declaration in specified form before the designated authority.
- Taxpayer needs to furnish an undertaking waiving his right direct or indirect to seek or pursue any remedy or claim in relation to the tax arrears under any law.
- Designated authority within 15 days from the date of receipt of declaration shall determine the amount payable by the Taxpayer and grant a certificate to the declarant containing particulars of tax arrears and amount payable in prescribed form.
- Upon filing of the declaration, the appeal is deemed to have been withdrawn from the date of issue of certificate U/s 5(1).
- The taxpayer would be required to submit the proof of withdrawal of appeal / writ with the intimation of payment i.e. before the issuance of final certificate for settling dispute and not with the declaration
- Taxpayer to pay the amount determined by the designated authority within 15 days from the date of receipt of the certificate and inform the designated authority of such payment made in prescribed form
- Order passed under Section 5(1) by the designated authority to be conclusive as to matters mentioned therein and such matters cannot be reopened in any other proceedings.
- No institution of any proceedings in respect of an offence, penalty or interest. [Section 6] (For the benefit of declarant)
- Appellate forums / arbitrator, conciliator or mediator not to decide the issue in respect of cases where an order under clause 5(1) is passed by the designated authority. [Section 4(7)]

TO SUM UP:

The efforts of the Finance Minister to reduce the tax litigation through this legislation should be appreciated. This will give opportunity to many assesseees to settle the long pending litigation under the Income tax Act by paying only the outstanding Income tax. This will reduce the burden of Interest and Penalty.

GST UPDATES

GST - EXTENSION OF DUE DATES

Sr No	Return	Turnover	Month / period	Regular due date	#Revised due date	Interest	Late fee and Penalty
1	GSTR-3B	Less than 1.5 Crore	Feb-20 Mar-20 Apr-20 May-20	22-03-20 22-04-20 22-05-20 22-06-20	30-06-20 03-07-20 06-07-20 12-07-20/ 14-07-20*	Not charged	Not levied if filed before extended due dates
		More than 1.5 Crore but less than 5 Crore	Feb-20 Mar-20 Apr-20 May-20	22-03-20 22-04-20 22-05-20 22-06-20	29-06-20 29-06-20 30-06-20 12-07-20/ 14-07-20*	Not charged	
		More than 5 Crore	Feb-20 Mar-20 Apr-20	20-03-20 20-04-20 20-05-20	24-06-20 24-06-20 24-06-20	Nil for the first 15 days from the original due date, and 9 % thereafter	
			May-20	20-06-20	27-06-20	Not charged	
2	GSTR-1 (Monthly)	More than 1.5 Crore	Mar-20 Apr-20 May-20	11-04-20 11-05-20 11-06-20	30-06-20 30-06-20 30-06-20	Not applicable	Not levied if filed before extended due dates
3	GSTR-1 (Quarterly)	Less than 1.5 Crore	Jan-Mar-20	30-04-20	30-06-20	Not applicable	
4	CMP-08 (Quarterly)	Composition Scheme	Jan-Mar-20	18-04-20	07-07-20	Not charged	Not charged
	GSTR-04 (Annualy)		2019-20	30-04-20	15-07-20	Not charged	Not charged
5	GST Audit	More than 5 Crore	2018-19	31-03-20	30-06-20	No change	No change
6	GST Annual return	More than 2 Crore	2018-19	31-03-20	30-06-20	No change	No change

7	Any notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents,	Every registered dealer	--	20-03-20 to 29-06-20	30-06-20	Not applicable	Not applicable
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* Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi

It's important to note that the due dates of GSTR 3B of Feb, March and April 2020 are not extended at all. There is only waiver of interest and late fees and that too if such returns are filed by the revised dates mentioned in the above table.

If Return is filed after the revised date then late fees and interest @18% would be chargeable from the regular due date.

GST – OTHER UPDATES

Particulars	Brief of notification / circular
E-Invoice	Registered person whose aggregate turnover in a financial year exceeds Rs. 100 crore shall issue E-Invoice & other prescribed documents w. e. f. October 01, 2020.
QR code on invoice	Registered person whose aggregate turnover in a financial year exceeds Rs. 500 crore shall have QR code on invoice issued to unregistered person. The said notification shall come in force from October 01, 2020.
Interest on net cash liability	Interest is to be paid on Net cash liability instead of gross retrospectively i.e. July 01, 2017.
Related to refund	Recovery of refund if export proceeds are not received within time period prescribed under FEMA. Where refund of tax wrongly paid or paid in excess is debited in credit ledger then the same will be re-credited to credit ledger. For the purpose of computing a refund on zero rated supplies, limit has been specified as lower of zero rated supply or 1.5 times the value of like goods domestically supplied.
Due date for availing Composition scheme	Amendment in the CGST Rules so as to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option in FORM CMP-02 till 30th June, 2020. ITC-03 (for reversal of already availed ITC) is to be filed on or before July 31, 2020.
GSTR-2A reconciliation cumulative basis	Allow cumulative application of the condition in rule 36(4) for the months of February, 2020 to August, 2020 in the return for tax period of September, 2020.

Reference:

(Notification No. 12 to 16/2020, 27 to 29/2020 -CT dated March 23, 2020 and 30 to 36/2020 dated April 03, 2020)



MCA UPDATES

USE OF CORPORATE SOCIAL RESPONSIBILITY (CSR) FUNDS TO FIGHT AGAINST CORONAVIRUS(COVID-19):

The Companies Act, 2013 ("The Act") mandates that every company with a net worth of INR500 crore or more, turnover of INR1,000 crore or more or a net profit of INR5 crore or more during the immediately preceding FY should contribute at least two percent of its average net profits (made during the three immediately preceding Financial years) for the purpose of CSR. Schedule VII of the Act provides a list of activities which are eligible for the CSR expenditure.

Ministry of Corporate Affairs vide Circular No 10/2020 dated March 23, 2020, has clarified that funds spent for various activities related to COVID-19 is eligible as CSR Activities as per item no (i) and (xii) of Schedule VII of the Act relating promotion of healthcare (including preventive healthcare and sanitisation) and disaster management. It was also clarified that contribution to PM-CARES Fund and State Disaster Management Authority qualify as CSR expenditure as per item no (viii) and item no (xii) of Schedule VII of the Act respectively. It may be noted that contribution to "Chief Minister's Relief fund" or "State Relief Fund for COVID-19" does not qualify as CSR activity as the same is not included in Schedule VII of the Act.

References: General Circular No.10.2020 on Covid dated 23/03/2020.pdf
General Circular No 15.2020 on Covid dated 10/04/2020.pdf

COMPANY FRESH START SCHEME, 2020

Sr No	Particulars	Clarifications
1	Background of the Scheme	"Company Fresh Start Scheme, 2020" is a scheme to give a Onetime opportunity to the companies to enable them to complete their pending compliances by filing necessary documents in the MCA-21 registry including annual filings without being subject to a higher additional fees on account of any delay.
2	Tenure of the Scheme	1 st April, 2020 to 30 th September, 2020.
3	Benefits extended under Scheme	<ol style="list-style-type: none"> One-time waiver of additional filing fees for delayed filings. However, normal fees in respect of documents filed under scheme are leviable. An immunity certificate in respect documents filed under this Scheme shall be issued which grants immunity from Penalty and Prosecution pertaining to any delay associated with filing of belated documents.
4	Benefits for Inactive Company	<ul style="list-style-type: none"> Can get such an inactive company declared as "dormant company" by filing Form MSC-1 at a normal fee. Can apply for striking off the name by filing Form STK-2 at normal fees.
5	Designated Authority	Registrar of Companies having jurisdiction over the registered office of the company.

6	Eligibility for the Scheme & Period of Default	<p>Scheme is applicable for any “defaulting company” which has not filed any document, statement, return etc. including annual statutory documents, which were due for filing on any given date and are pending to file on the date of accessing the Scheme.</p> <p>Default relating any past period from incorporation of the company till the date is covered.</p>
7	Applicability exclusions	<p>Scheme shall not apply to:</p> <ul style="list-style-type: none"> - Companies who have applied for Striking off its name - Companies against which action for final notice for striking off has been already initiated - Companies who have applied for obtaining Dormant Status - Amalgamated Companies under a scheme of arrangement or compromise - Vanishing Companies - filing of documents related to increase in the authorised capital - filing of charge related documents
8	Which defaults are not covered under Immunity	<p>All other defaults except delay in filings of documents are not covered, such as proceedings involving interests of any shareholder or any other person.</p> <p>For Example, under section 42(8), every company is required to file a return of allotment within the period provided therein. However, the proviso to section 42(4) also requires that the utilisation of money raised through private placement shall not be made unless the return of allotment has been filed in the registry. Now, the immunity shall only be available in respect of the proceeding for imposing penalty on account of delay in filing the return of allotment, but not on account of utilization of the money raised through private placement prior to the filing of the return with the registry.</p>
9	What if Defaulting Company has already filed an appeal before a competent court or an authority	<p>Company shall first withdraw such appeal and furnish proof of withdrawal before filing the application for issue of immunity certificate under the scheme.</p>
10	Relaxation for Filing an Appeal against the order of an Adjudicating Authority	<p>Where last date of filing an appeal against the order of an Adjudicating Authority falls between 1st March, 2020 to 31st May, 2020, an extension of 120 additional days has been given from the last date of appeal filing.</p> <p>During the additional period of 120 days, no prosecution for noncompliance of the order of the adjudicating authority, in so far as it relates to delay associated in filing of any document, statement or return etc., shall not be initiated.</p>
11	Procedure for applying for Immunity	<p>An application for seeking immunity is required to be made by electronically filing Form CFSS-2020 without any fees.</p> <p>Form CFSS-2020 shall be filed after documents are taken on record and approved by Authority but not later than six months of the expiry of the Scheme. (i.e. From 1st October, 2020 to 31st March, 2021)</p>
12	Exception to Immunity	<p>Immunity is not available</p> <ul style="list-style-type: none"> - for matter of any appeal pending before the court of law in case of management disputes - in case any court has ordered conviction in any matter, or an order imposing penalty has been passed by an adjudicating authority under the Act, and no appeal has been preferred against such orders before scheme came into force.
13	Link to Circular	<p>http://www.mca.gov.in/Ministry/pdf/Circular12_30032020.pdf</p>

LLP SETTLEMENT SCHEME 2020

Sr No	Particulars	Clarifications
1	Background of the Scheme	Any Defaulting LLP is permitted to file belated documents, which were due for filing till 31st August, 2020 in accordance with the provision of the scheme.
2	Tenure of the Scheme	1 st April, 2020 to 30 th September, 2020
3	Benefits extended under Scheme	<ol style="list-style-type: none"> One-time waiver of additional filing fees for delayed filings. However, normal fees in respect of documents filed under scheme are leviable. Immunity certificate in respect of documents filed under this Scheme shall be issued which grants immunity from Penalty and Prosecution pertaining to any delay associated with filing of belated documents.
4	Designated Authority	Registrar of Companies having jurisdiction over the registered office of the company.
5	Eligibility for the Scheme & Period of Default	<p>Scheme is applicable for any "defaulting LLP" Where, Defaulting LLP means a LLP registered under the Limited Liability Partnership Act, 2008 which has made a default in filing of documents on the due date(s) specified under the LLP Act, 2008 and rules made there under.</p> <p>Default relating any past period from incorporation of the LLP till the date is covered.</p>
6	Applicability exclusions	<p>Scheme shall not apply to:</p> <ul style="list-style-type: none"> LLP which had made application in form 24 to Registrar, for striking off their name from the register as per provision of Rule 37(1) of the LLP Act, 2009
7	Which defaults are not covered under the immunity	All other defaults except delay in filings of documents are not covered, such as proceedings involving interests of any Partner or any other person
8	Relaxation for Filing an Appeal against the order of an Adjudicating Authority	<p>Where last date of filing an appeal against the order of an Adjudicating Authority falls between 1st March, 2020 to 31st May, 2020, an extension of 120 additional days has been given from the last date of appeal filing.</p> <p>During the additional period of 120 days, no prosecution for noncompliance of the order of the adjudicating authority, in so far as it relates to delay associated in filing of any document, statement or return etc., shall not be initiated.</p>
9	Source / Circular	http://www.mca.gov.in/Ministry/pdf/Circular13_30032020.pdf



SEBI UPDATES

Regulations under SEBI LODR, 2019

Particulars	Due Date	Extended Date
Corporate Governance	April 15, 2020	May 15, 2020
Statement of Investor Complaints	April 21, 2020	May 15, 2020
Shareholding Pattern	April 21, 2020	May 15, 2020
Compliance Certificate on share transfer facility	April 30, 2020	May 31, 2020
Compliance Certificate on timely issue of share	April 30, 2020	May 31, 2020
Financial Results	May 30, 2020	June 30, 2020
Annual Secretarial Compliance Report	May 30, 2020	June 30, 2020
Holding of AGM by top 100 listed entities by market capitalization for FY 19-20	August 31, 2020	September 30, 2020
Nomination and Remuneration Committee, Stakeholders Relationship Committee and Risk Management committee meeting	March 31, 2020	June 30, 2020
Publication of advertisements in the newspapers	Exemption from publication of advertisement for all events scheduled till May 15, 2020	
Time gap between any two meetings of the board of directors or audit committee	Exemption from observing the maximum stipulated time gap between two meetings for the meetings held or proposed to be held between the period December 1, 2019 and June 30, 2020.	

Circular No. 38 dated March 19, 2020, No. 41 dated March 23, 2020, No. 48 dated March 26, 2020



RBI UPDATES

REGULATORY MEASURES BY RBI

Moratorium on Term Loans	All commercial banks, Financial Institutions, and NBFCs shall allow optional moratorium of 3 months on payment of instalments on all term loans outstanding as on 1-3-2020
Deferment of Interest on Working Capital Facilities	Lending institutions shall allow optional deferment of 3 months on payment of interest on working capital facilities sanctioned in the form of cash credit/overdraft outstanding as on 1-3-2020.
Non Classification as Special Mention Account (SMA) and Non-Performing Asset (NPA)	Moratorium / deferment will not result in asset classification downgrade.

(RBI/2019-20/186 dated March 27, 2020)

GENERAL RELIEF GRANTED BY RBI

Time period for realization and repatriation of export proceeds for exports made up to or on July 31, 2020, has been extended to 15 months from the date of export.
No charges shall be levied for withdrawal of cash form ATM of other banks for next three months ie. till 24-06-2020
No fees shall be levied by any bank for three month for not maintaining minimum balance.

(Press release 2019-2020/2167 dated April 01, 2020, PIB dated March 24, 2020)

OTHER UPDATES

PF

Government of india will pay EPF contribution of both employer and employee (12 % each) for the next three months.

This is for those establishments that have up to 100 employees and 90% of whom earn under Rs. 15,000 monthly wage.

PF contribution due date for the month of March , 2020 extended from April 15, 2020 to May 15, 2020.

(Press release dated March 26, 2020 and Notice dated April 15, 2020)

ESIC

ESIC contribution for the month of February 2020 and March 2020 can be filed and paid up to May 15, 2020 instead of March 15, 2020 and April 15, 2020 respectively.

(Notice dated March 16, 2020 and April 13, 2020)

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BRANCHES

RAJKOT

BARODA

UDAIPUR

GANDHINAGAR

ABOUT US

Manubhai & Shah was established in 1975 by Mr. Manubhai Patel who started his practice in the year 1959. In the year 2014 Shah & Co. merged with the firm. Shah & Co. was established in the year 1945, whose senior partner Mr. Pradyumna N. Shah is a past president of The Institute of Chartered Accountants of India. Manubhai & Shah was converted into LLP on 1st April 2016. Over the years Manubhai & Shah LLP has developed into one of the leading Chartered Accountancy firms in India with a global client base. The firm is able to offer a broad spectrum of services to its clients.

Manubhai & Shah LLP is a member of an international network of professional accounting firms. It is positioned to provide clients with a global delivery model.

The firm is having highly experienced, knowledgeable, young, enthusiastic and techno savvy partners. It has absorbed majority of partners from within the firm. This has resulted into a highly competent and dedicated team of professionals clearly focused on serving clients and providing value addition. As a result of this, the firm has gained confidence of the clients over decades of their association with the firm.



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