

NEWSLETTER

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Covering Updates for the Month of April' 22

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DIRECT TAX UPDATES

1. E-Dispute Resolution Scheme, 2022

(C.B.D.T. Notification No 27/2022 dated 05.04.2022)

The Finance Act, 2021 has inserted section 245MA under Chapter XIX-AA in respect to Dispute Resolution Committee to resolve an application made in respect of dispute arising from any variation in the specified order including draft order. C.B.D.T. has now notified E-Dispute Resolution Scheme, 2022.

The Scheme is applicable to following specified order:

- i. Aggregate sum of variations proposed or made in such order does not exceed Rs.10 Lakhs
- ii. Where the total income as per return of income not exceeding Rs.50 Lakhs has been filed by the assessee relevant to such order,
- iii. Such order is not initiated under section 132, 132A, 133A, 90 or 90A

2. Insertion of Rules & Forms under Dispute Resolution

(CBDT Notification No. 26/2022 Dated 05.04.2022)

CBDT has inserted new Rules in regard to **Dispute Resolution Scheme** under Part IX-AA of the Income tax Rules, 1962 vide Income-tax (Seventh Amendment) Rules, 2022 which is effective from 05.04.2022. Following Rules are inserted under the Part IX-AA:

- i. Rule 44DAA – which provides for Constitution of Dispute Resolution Committee
- ii. Rule 44DAB – which provides procedure of Application in **Form No. 34BC** for resolution of dispute before the Dispute Resolution Committee.
- iii. Rule 44DAC – provides Power of the Committee to reduce or waive penalty imposed or grant immunity from prosecution or both under the Act if it is satisfied that the Applicant has paid the due tax in full and has cooperated with the Committee in the proceeding.

However, the Committee cannot grant immunity to the Applicant in a case where the proceedings for the prosecution have been initiated before the date of receipt of the application.

It is also provided that an immunity granted shall stand withdrawn, if the applicant fails to comply with any of the conditions subject to which the immunity was granted and thereupon the provisions of the Act shall apply as if such immunity or waiver had never been granted.

3. Insertion of New Rule 12AB – Conditions for furnishing return of income

(C.B.D.T. Notification No 37/2022 dated 21.04.2022)

The Income-tax (Ninth Amendment) Rules, 2022 has inserted new Rule 12AB specifying conditions for furnishing return of income **by a person other than a Company or Firm/LLP as provided under section 139(1)(b) of the Income tax Act, 1961. The said conditions specify that under mentioned persons are required to file their income tax return as provided under clause (iv) of the seventh proviso to section 139(1) even though his income is below the taxable limit of Rs. 2.50 Lakhs. The Rule is effective from 21.04.2022.**

- i. if his total sales, turnover or gross receipts in the business exceeds Rs. 60 lakhs during the previous year; or
- ii. if his total gross receipts in profession exceeds Rs. 10 lakhs during the previous year; or
- iii. if the aggregate of T.D.S. and T.C.S. during the previous year is Rs. 25,000/- or more; However, in the case of a resident individual who is of the age of 60 years and above the said limit of T.D.S. or T.C.S. is Rs. 50,000/- or more; or
- iv. the aggregate of deposit in one or more savings bank account of the person, is Rs. 50 lakhs or more during the previous year.

4. Insertion of New Rule 21AAA – Taxation of income from Retirement Benefit Account in a notified country (C.B.D.T. Notification No 24/2022 dated 04.04.2022)

The finance Act, 2021 has inserted **new section 89A** giving tax Relief from taxation on income of a specified person (Resident Indian) from retirement benefit account in a notified country. The Income-tax (Sixth Amendment) Rules, 2022 has inserted new Rule 21AAA in this respect which provides that:

- i. Where a specified person has income accrued in a specified account or accounts, during a previous year relevant to any assessment year beginning on or after the 1st day of April, 2022, such income shall, at his option, be included in his total income of the previous year relevant to the assessment year in which income from the said specified account or accounts is taxed at the time of withdrawal or redemption in the notified country,
- ii. Where the specified person has exercised the option, his total income for the previous year in which income is taxable under sub-rule (1) shall not include the income which
 - a. Has already been included in the total income of such specified person in any of the earlier previous years during which such income accrued and tax thereon has been paid in accordance with the provisions of the Act; or
 - b. Was not taxable in India, in the previous year during which such income accrued, on account of,—
 - i. Such specified person being a non-resident, or not ordinarily resident referred to in section 6(6); or
 - ii. Application of the Double Taxation Avoidance Agreement, if any and he shall not be eligible to claim credit of the foreign tax paid on the same under Rule 128 of the Income tax Rule.
 - iii. It is also provided under sub-rule (5) that such option can be exercised by furnishing of Form No. 10-EE electronically under digital signature or electronic verification code on or before the due date for furnishing the return of income specified under section 139(1) of the Act. The option once exercised for a specified account or accounts in respect of a previous year in Form No. 10-EE shall apply to all subsequent previous years and cannot be subsequently withdrawn.
 - iv. However, it is also provided that in a case where the specified person becomes a non-resident during any relevant previous year, then the option exercised under sub-rule (1) shall be deemed to have never been exercised with effect from the relevant previous year; and the income which has accrued in the specified account or accounts during the period, beginning with the previous year in respect of which the option was exercised and ending with the previous year immediately preceding the relevant previous year, shall be taxable during the previous year immediately preceding the relevant previous year and tax shall be paid on or before the due date for furnishing the return of income for the relevant previous year.

5. Countries Notified under section 89A – Tax Relief of income from retirement benefit account in a notified country (C.B.D.T. Notification No 25/2022 dated 04.04.2022)

CBDT has notified following countries in regard to Tax Relief on income from retirement benefit account by a Resident Indian under section 89A of the Act-

- i. United States of America
- ii. Canada
- iii. United Kingdom of Great Britain; and
- iv. Northern Ireland

6. Revised instruction for constitution and functioning of 'local committees to deal with taxpayers' grievances from high-pitched scrutiny Assessment

(C.B.D.T. Instruction No. 225/101/2021 Dated 23.04.2022)

Taking into consideration the changes in organizational set-up subsequent to launch of Faceless Assessment regime, the CBDT has notified following instructions regarding constitution and functioning of 'Local Committees to deal with Taxpayers' Grievances from High-Pitched Scrutiny Assessment' :

A. Constitution of Local Committees

The Local Committee shall consist of 3 members of Pr. CIT/CIT rank. In concurrence with Faceless Assessment processes, Local Committees so constituted shall have one Pr. CIT (AU) of the region. The Local Committee constituted under the Pr. CCIT (International Taxation) need not have a Pr. CIT (AU) as a member, as the assessments under the International Taxation charges are outside the purview of Faceless Assessment regime.

The Local Committees shall deal with the grievance petitions of the assesses under the jurisdiction of respective Pr. CCIT regarding High-Pitched Scrutiny Assessments completed under both Faceless and non-Faceless Assessment regimes

B. Receipt of Grievances

Grievances related to High-Pitched Scrutiny Assessments completed under the Faceless Assessment regime will be received by NaFAC through dedicated e-mail id: samadhan.faceless.assessment@incometax.gov.in. Grievances so received shall be forwarded to Local Committee of the Pr. CCIT concerned by NaFAC, under intimation to Pr. CCIT of the Region/ Pr. CCIT(Exemption).

Grievances related to High-Pitched Scrutiny Assessments completed under the non-Faceless Assessment regime will be received by the office of Pr. CCIT concerned, physically or through e-mail. Grievances so received shall be forwarded to Local Committee of the Pr. CCIT concerned.

The purpose of constitution of Local Committees is to effectively and efficiently deal with the genuine grievances of taxpayers and to help that the assessment orders are passed in a fair and reasonable manner. However, it is also clarified that such Local Committees cannot be treated as an alternative forum to dispute resolution/appellate proceedings

7. New Rule 12AC & Form to Update Income tax Return

(C.B.D.T. Notification No 48/2022 dated 30.04.2022)

The Finance Act, 2022 has inserted new sub-section (8A) under section 139 to file an updated return relating to the assessment year commencing from 1st day of April, 2020 and subsequent assessment year, wherein it allows up to 24 months to file the return of income. In this regard the C.B.D.T. has notified a new Rule 12AC and new Form ITR-U for filing of such updated return of income

ARTICLE ON NEW RULES

• ARTICLE ON NEW RULES & PROCEDURE FOR REPORTING OF DONATIONS RECEIVED BY CHARITABLE TRUSTS AND INSTITUTIONS

The Finance Act, 2020 introduced some amendments in the provisions dealing with exemptions to Charitable Trusts and Institutions. These were to be effective from 1st June, 2020 but this date was extended from time to time by the Ministry of Finance and is now effective from 1st April, 2021. The C.B.D.T. has notified Rules and Procedure for Reporting of Donations by such Trusts and Institutions vide Notification no. 19/2021 dated 26.03.2021. The Charitable Trusts and Institutions recognized under Sections 80G or 35(1A) of the Income tax Act are required to furnish information of Donations received in Form No 10BD. Details of these requirements are discussed below:-a

1. Furnishing of Statement of Donations received and certificate under section 80G/35(1A) under New Rule 18AB:

Form No.10BD shall be filed electronically (online application) either digitally signed or through electronic verification code, as the case may be, and shall be verified by the person who is Authorized to verify the return of income under section 140 of the Income tax Act. Form 10BD shall be e-filed on or before the 31st May, immediately following the financial year in which the donation is received. So, for F.Y. 2021-22, the due date to e-file Form 10BD is 31st May, 2022.

2. The online filing of form 10BD has been activated on the Income tax Portal by the Income tax Department on 26.04.2022 without any Notification. Details of Donations received are to be provided in Part-B of the Form 10BD. Following details are to be provided under Part B :-

Part B

Details of Donors and Donations received

SL No	Pre-Acknowledgment Number (ARN)	ID Code	Unique Identification Number of the donor	Section Code	Unique Registration Number & Date of Issue	Name of Donor	Address of Donor	Donation Type	Mode of receipt	Amount of donation (Indian Rs.)

Details to be provided under Part B is as under: -

Acknowledgement Number of Donation Receipt (ARN)

This being the Acknowledgement number generated through e-Filing portal and quoted on the receipt issued to donor in Form No. 10BE. If no Pre-Acknowledgment has been generated the field can be left blank. This field is optional in case of filing of Original Form.

However, in case of "Revised" filing of Form 10BD, it is mandatory to provide then it is mandatory to provide such Acknowledgement number generated.

ID Code & Unique Identification Number :

Donor's PAN or Aadhaar Number is considered as ID Code & Number. In case both are not available then TIN (Tax Identification Number) or Passport number Elector's photo identity number Driving License number Ration card number can be used as ID Code & Number.

Section Code

Under this to mention specific section under which Donation is received,i.e., Section 80G / 35 (1) (ii) / 35 (1) (ia) / 35 (1) (iii)

Unique Registration number (URN) & Date of Issue

Under this Column, Unique Registration number approved in Form No. 10AC for Registration of the Trust/Institution U/sec 80G is to be provided & the date of issuance of the said Approval in Form 10AC is to be mentioned under Date of Issue.

Donation Type

Nature of Donation is to be mentioned i.e.- Corpus.Specific Grant or Others which include Voluntary Donation

Mode of Receipt

Mode of receipt of Donation is to be mentioned ,i.e.- Cash /Electronic Mode including Cheque and Demand Draft/ in Kind / Other Mode

3. SIZE OF CSV FILE

The size of the CSV file containing the details of Part B of Form 10BD should not exceed 50MB.



COMPANY LAW UPDATES

I) MCA Updates

A. The Nidhi (Amendment) Rules:

The Nidhi (Amendment) Rules, 2022 have been notified amending various provisions related to Nidhi Companies such as increasing minimum paid up capital from 5 lakhs to 10 lakhs, minimum net owned fund from 10 lakhs to 20 lakhs, rules regarding closure of branch, transfer of shareholding, E-filing Forms, etc.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NjlzMjI3ODk=&docCategory=Notifications&type=open>

B. Amendment in Companies Incorporation Rules:

The Companies (Incorporation) Amendment Rules, 2022 have been notified to amend the Form INC 20A – Declaration for commencement of business.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NjlzMjE5NzM=&docCategory=Notifications&type=open>

C. Amendment in Indian Accounting Standards (Ind AS):

The MCA has notified certain amendments to existing Ind AS via notification dated 23 March 2022. The same shall come into force from annual reporting period beginning on or after 1st April 2022. Key synopsis of such amendments are as under:

- (i) Ind AS 16 Property, Plant and Equipment - For items produced during testing/trail phase, clarification added that revenue generated out of the same shall not be recognised in SOPL and considered as part of cost of PPE.
- (ii) Ind AS 37 Provisions, Contingent Liabilities & Contingent Assets – Guidance on what constitutes cost of fulfilling contracts (to determine whether the contract is onerous or not) is included.
- (iii) Ind AS 41 Agriculture - This aligns the fair value measurement in Ind AS 41 with the requirements of Ind AS 113 Fair Value Measurement to use internally consistent cash flows and discount rates and enables preparers to determine whether to use pre-tax or post-tax cash flows and discount rates for the most appropriate fair value measurement.
- (iv) Ind AS 101 – First time Adoption of Ind AS – Measurement of Foreign Currency Translation Difference in case of subsidiary/associate/ JV's date of transition to Ind AS is subsequent to that of Parent – FCTR in the books of subsidiary/associate/JV can be measured based Consolidated Financial Statements.
- (v) Ind AS 103 – Business Combination – Reference to revised Conceptual Framework. For contingent liabilities / levies, clarification is added on how to apply the principles for recognition of contingent liabilities from Ind AS 37. Recognition of contingent assets is not allowed.
- (vi) Ind AS 109 Financial Instruments – The amendment clarifies which fees an entity includes when it applies the '10 per cent' test in assessing whether to derecognise a financial liability.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDg4MTA3MzE=&docCategory=Notifications&type=open>

D. Amendment in Companies (Management and Administration) Rules:

Companies (Management and Administration) Rules have been amended to clarify that following particulars of the register or index or return in respect of the members of a company shall not be made available for any inspection or for taking extracts or copies, namely:

- i) Address or registered address (in case of a body corporate);
- ii) E-mail ID;
- iii) Unique Identification Number;
- iv) PAN Number.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDY4MzE1MjA=&docCategory=Notifications&type=open>

E. Amendment in Companies (Registration of Charges) Rules, 2014:

In rule 3 prescribing for provisions relating to registration of creation or modification of charge, after sub-rule (4), following sub-rule is inserted:

“(5) Nothing contained in this rule shall apply to any charge required to be created or modified by a banking company under section 77 in favour of the Reserve Bank of India when any loan or advance has been made to it under sub- clause (d) of clause (4) of section 17 of the Reserve Bank of India Act, 1934 (2 of 1934)”



SEBI UPDATES

A. Amendment in SEBI (LODR) Regulations:

It has been clarified that the amendments relating to sub-regulation (3A) of regulation 32, regulation 49, regulation 129, regulation 145, clause (10) and clause (15) of Part A of Schedule XIII, and Schedule XIV carried out by the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2022 shall come into force in the following manner:

- For public issues of a size less than ₹10,000 crore and opening on or after April 1, 2022; with effect from April 1, 2022;
- For public issues of a size equal to or more than ₹10,000 crore and opening on or after April 1, 2022; with effect from July 1, 2022.

Notification can be accessed at:

https://www.sebi.gov.in/legal/regulations/apr-2022/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-second-amendment-regulations-2022_58496.html

B. Master Circulars for REITs and InvITs:

For effective regulation of Real Estate Investment Trusts and Infrastructure Investment Trusts, Securities and Exchange Board of India (SEBI) has been issuing various circulars from time to time. In order to enable the industry and other users to have an access to all the applicable circulars at one place, Master Circular for Real Estate Investment Trusts and Infrastructure Investment Trusts have been prepared. In case of any inconsistency between the master circular and the applicable circulars, the contents of the relevant circular shall prevail.

Master Circulars can be accessed at:

REITs: <https://www.sebi.gov.in/legal/master-circulars/apr-2022/master-circular-for-real-estate-investment-trusts-reits-58396.html>

InvITs: <https://www.sebi.gov.in/legal/master-circulars/apr-2022/master-circular-for-infrastructure-investment-trusts-invits-58394.html>

C. Standardisation of Ratings Scales used by credit rating agencies:

In order to standardise the usage of rating scales, SEBI vide circular no. SEBI / HO / MIRSD / MIRSD_CRADT / P / CIR / 2021 / 594 dated July 16, 2021 advised the credit rating agencies to either align their rating scales with the rating scales prescribed under the guidelines of respective financial sector regulator or authority in terms of Regulation 9(f) of SEBI (Credit Rating Agencies) Regulations, 1999, or in absence of the same, follow rating scales prescribed by the Board vide circular dated June 15, 2011, June 13, 2019, or any other circular issued by the Board from time to time, by March 31, 2022.

However, In view of representation received from credit rating agencies, it has been decided to extend the date of applicability of the section B of the aforesaid circular. Credit rating agencies shall ensure compliance with the requirements/ provisions of the section B of the aforesaid circular on or before June 30, 2022.

Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/apr-2022/standardisation-of-ratings-scales-used-by-credit-rating-agencies-extension-of-timeline-for-implementation_57529.html

D. Clarification on applicability of Regulation 23(4) read with Regulation 23(3)(e) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions:

Regulation 23(3)(e) of the SEBI LODR Regulations specifies that omnibus approval granted by the audit committee shall be valid for a period not exceeding one year and shall require fresh approvals after expiry of one year. Regulation 23(4) of the SEBI LODR Regulations requires shareholder approval for material related party transactions (RPTs).

Section 96(1) of the Companies Act, 2013 specifies that the time gap between two Annual General Meetings (AGMs) cannot be more than fifteen months.

In order to facilitate listed entities to align their processes to conduct AGMs and obtain omnibus shareholders approval for material RPTs, it has been decided to specify that the shareholders approval of omnibus RPTs approved in an AGM shall be valid upto the date of the next AGM for a period not exceeding fifteen months.

In case of omnibus approvals for material RPTs, obtained from shareholders in general meetings other than AGMs, the validity of such omnibus approvals shall not exceed one year.

Circular can be accessed at:

<https://www.sebi.gov.in/legal/circulars/apr-2022/clarification-on-applicability-of-regulation-23-4-read-with-regulation-23-3-e-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-in-relation-to-related-party-transactio-57807.html>



ACCOUNTING UPDATES

A. EAC Opinion:

Expert Advisory Committee (EAC) of ICAI has provided an Opinion on Classification of business activity as operating activity or investing activity

The relevant text of the Opinion is reproduced below:

“In the extant case, the Committee notes that investments in non-transferrable and nonconvertible special government securities are apparently long-term in nature, having a tenure of 10-15 years and therefore, cannot be considered as held for trading or dealing purposes. Accordingly, considering the above discussion, the Committee is of the view that acquisition and disposal of the special government securities are investing activities and therefore cash flows from acquisition and disposal/maturity of such investments are cash flows from investing activities.

Accordingly, in the extant case, the proceeds from redemption of government securities other than special government securities would depend upon whether these can be considered as held for trading or dealing purposes or are long-term resources. If investments in marketable government securities can be considered as held for trading or dealing purposes, cash flows from redemption of these securities should be considered as operating activities, otherwise these should be considered as investing activities.

With regard to cash flows from equity infusion in wholly-owned subsidiary, the Committee notes that the requirements of Ind AS 7 relating to investments in subsidiaries do not make distinction in classification due to an entity being a financial institution. Accordingly, considering the requirements of paragraph 39 of Ind AS 7 and the above discussion on investing activities, the Committee is of the view that the cash flows from obtaining control of a subsidiary cannot be considered as cash flows from operating activity and should be classified as cash flows from investing activity.”

EAC Opinion can be accessed at:

<https://resource.cdn.icai.org/70201cajournal-may2022-8.pdf>



RBI UPDATES

1. Requirement of Independent Compliance Function and Chief Compliance Officer (“CCO”):

RBI's scale-based regulations required NBFC-UL and NBFC-ML to have an independent Compliance Function and CCO. Now, the RBI has gone forward to suggest a framework for the above purposes which is required to be adopted and approved by boards of said NBFC's by 1st April 2023 and 1st October, 2023. The said NBFC's should ensure compliance with the scaled based regulations and keep tracker with due dates for each compliance.

Notification dated 11th April, 2022

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12290&Mode=0>

2. Disclosures in Financial Statements of NBFC's:

RBI's scale-based regulations required certain additional disclosures in financial statements of NBFC's over and above the disclosures as per existing guidelines and accounting standards / principles. Through this notification, it has suggested format for such additional disclosures which is attached as annex in the said notification. It is important to note that the disclosure requirements applicable to lower layer companies would automatically apply to higher layers (i.e., medium layer and upper layer). The said format and disclosure requirements shall be effective for annual financial statements for year ending March 2023 and onwards.

Notification dated 19th April, 2022

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12292&Mode=0>

3. Regulatory restrictions of Loans and Advances given by NBFC's:

RBI's scale-based regulations has introduced certain regulatory restrictions on loans and advances given by NBFC's placed in different layers. Through this notification, it has issued detailed guidelines which shall be made applicable from 1st October, 2022.

Notification dated 19th April, 2022

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12294&Mode=0>

4. Capital requirements for Non-Banking Finance Companies – Upper Layer (NBFC-UL):

RBI's scale-based regulations has mandated NBFC's falling in the Upper Layer category to maintain Common Equity Tier 1 Capital of at least 9% of Risk Weighted Assets. The detailed guidelines in this regard are issued by RBI vide this notification.

Notification dated 19th April, 2022

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12296&Mode=0>

5. Large Exposures Framework for Non-Banking Financial Company - Upper Layer (NBFC-UL):

RBI's scale-based regulations has prescribed framework for Large Exposures of NBFC's falling in the Upper Layer category. The detailed guidelines in this regard are issued by RBI vide this notification.

Notification dated 19th April, 2022

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12298&Mode=0>

6. Reserve Bank of India (Credit Card and Debit Card – Issuance and Conduct) Directions, 2022:

With the increasing usage of digital currency i.e., credit cards and debit cards, RBI felt necessary and in public interest to issue directions on their issuance and conduct. Thus, RBI has issued subject directions which are applicable from 1st July, 2022. The provisions of such directions would be applicable to credit card issuing entities like banks and NBFC's and debit card issuing banks. The directions would cover the general and conduct regulations relating to credit, debit and co-branded cards which shall be read along with prudential, payment and technology & cyber security related directions applicable to credit, debit and co-branded cards, as issued by the Reserve Bank.

Notification dated 21st April, 2022

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12300&Mode=0>

7. Legal Entity Identifier (LEI) for borrowers:

RBI had introduced the concept of LEI for large corporate borrowers in 2017. The said code was required to be taken by specified borrowers of specified institutions. Through this notification, it has extended the list of institutions whereby primary urban co-operative banks and NBFC's are also included. It has also reduced the limit of borrowings to exposures above Rs. 5 crore of non-individual borrowers to cover more entities under the said code.

Notification dated 21st April, 2022

https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12301&Mode=0#AN_1



ARTICLE ON VALUATION OF SHARES

1. Preamble:

Valuation is the process of estimating the market value of financial asset or liability of the business or an Individual. The valuation of an asset is an estimate of the worth of that asset which is arrived at after factoring in multiple parameters and externalities.

There is always a saying that Valuation is neither a pure Art nor a pure science but a perfect combination of both. In the valuation process, Valuer values the organization by applying specific methods of valuation (which can be termed as part of Science) and his own experience in taking various assumptions i.e. an Art.

In this article, we will touch upon the issues of Valuation of Shares under various legislative provisions and the Valuation Techniques. The valuation of Shares is required for compliance with the requirements of different acts as detailed hereunder:

- The Companies Act, 2013
- The Income Tax Act 1961,
- Foreign Exchange Management Act, 1999 and Master Circular on Foreign Investments in India issued by Reserve Bank of India
- The Insolvency & Bankruptcy Code 2016
- Guidelines of The Securities Exchange Board of India (SEBI)

As per legislative provisions, the Valuation of Shares shall be carried out by

- Registered Valuers (as defined in Section 247 of the Companies Act, 2013)
- Merchant Bankers registered with SEBI
- Practicing Chartered Accountants

2. Valuation of Shares under Legislative Provisions:

i. Under the Companies Act, 2013

- a. As per the provisions of the Companies Act, 2013 valuation of Share is required in following circumstances:
 - Further issue of shares (except in case of right issue to existing shareholders or to employees under ESOP) (Section 62 of Companies Act, 2013)
 - Issue of Sweat Equity Shares (Section 54 of the Companies Act, 2013)
 - Determination of Swap Ratio under Scheme of Compromise / Arrangement (Section 232 of the Companies Act, 2013)
 - Corporate Debt Restructuring (Section 230 of the Companies Act, 2013)
 - Purchase of minority shareholding (Section 236 of the Companies Act, 2013)
 - Winding up of the company (Section 270 of the Companies Act, 2013)
 - Buy back of Securities (Obtaining report is not mandatory) (Section 68 of the Companies Act, 2013)
- b. The valuation report shall be obtained from a Registered Valuer as defined in section 247 of the Companies Act, 2013 in above circumstances.

ii. Under the Income-tax Act, 1961

- a. As per Income Tax Act, 1961 valuation of shares is required in following circumstances:
 - Issue of shares by Company in which public are not substantially interested (Required by Company to determine fair value of consideration received for issue of shares) (u/s. 56(2)(viib) of Income-tax Act, 1961)
 - Transfer of Unquoted Securities (Required to determine fair value of shares for the purpose of transfer of property) (u/s. 56(2)(x) & 50CA of Income-tax Act, 1961)
- b. As per the provisions of Income Tax Act, 1961 and relevant rules, report for Valuation of shares of a company is required to be obtained from:
 - Merchant Banker in case the valuation of Securities is carried out under Discounted Cash Flow Method.
 - Practicing Chartered Accountant for valuation of shares as per Value determined in Rule

iii. Under Foreign Exchange Management Act, 1999

- a. As per Foreign Exchange Management Act, 1999 and in terms of Master Circular on Foreign Investments in India issued by Reserve Bank of India, valuation of share is required to be obtained in following circumstances:
 - Fresh Issue of shares (On the basis of SEBI guidelines in case of listed companies and not less than fair value of shares determined as per the Discounted Free Cash Flow Method (DCF) in case of unlisted companies)
 - Acquisition / Transfer of Shares:
 - (i) Negotiated price for shares of companies listed on a recognized stock exchange in India which shall not be less than the price at which the preferential allotment of shares can be made under the SEBI guidelines.
 - (ii) Negotiated price for shares of companies which are not listed on a recognized stock exchange in India which shall not be less than the fair value to be determined as per the Discounted Free Cash Flow (DCF) method.
- b. As per Master Circular on Foreign Investments in India issued by Reserve Bank of India report for Valuation of shares of a company is required to be obtained from:
 - SEBI registered Merchant Banker or a Chartered Accountant as per the Discounted Free Cash Flow Method (DCF) in case of unlisted companies.
 - In case of Acquisition / Transfer of Shares, the price per share arrived under SEBI guidelines should be certified by a SEBI registered Merchant Banker or a Chartered Accountant.

iv. Under guidelines issued by SEBI:

- (a) SEBI has provided guidelines for valuation of shares and assets in following circumstances:
 - Open Offer to the Public in case of substantial acquisition of shares
 - Preferential Allotment of Shares
 - Issue of Sweat Equity Shares
 - Delisting of Shares
 - Scheme of Arrangement
- (b) In terms of various guidelines issue by SEBI, the report for Valuation of shares is required to be obtained from SEBI registered Merchant Banker / Chartered Accountant / Statutory Auditor / Registered Valuer as per applicable guidelines.

v. Under the Insolvency & Bankruptcy Code, 2016

- (a) In case of Corporate Debtor, where the Insolvency Professional has been appointed and actions have been initiated, valuation of assets is required in following circumstances:
 - To determine Fair Value and Liquidation Value of various assets of Corporate Debtor at the time of initiation of insolvency process
 - To determine Liquidation Value of Assets at the time of voluntary liquidation under the code
- (b) As per the provisions of the Insolvency & Bankruptcy Code, 2016, the valuation report is required to be obtained from a Registered Valuer as defined in section 247 of the Companies Act, 2013.

3. Valuation Methodology:

The Fair Value is often defined as the price, in terms of cash or equivalent, that a buyer could reasonably be expected to pay and a seller could reasonably be expected to accept, if the business were exposed for sale in the open market for a reasonable period of time, with both buyer and seller being in possession of the pertinent facts and neither being under any compulsion to act.

Valuation of a business is not an exact science and the conclusions arrived at in many cases will, of necessity, be subjective and dependent on the exercise of individual judgement. In the ultimate analysis, valuation will have to be tempered by the exercise of judicious discretion by the Valuer and judgement taking into accounts all the relevant factors. There is, therefore, no indisputable single value. While I have provided my recommendation of the fair equity share exchange ratio pursuant to the scheme based on the financial and other information available to me and within the scope and constraints of my engagement, others may have a different opinion. The final responsibility for determination of the fair equity share exchange ratio is of the management of the Companies who takes into account other factors such as their own assessment of the companies and input of other advisors.

The results of this exercise could vary significantly depending upon the basis used, the specific circumstances and professional judgment of the valuer. In respect of going concerns, certain valuation techniques have evolved over time and are commonly in vogue. These can be broadly Categorized as follows:

4. Valuation Approach:

(i) Cost Approach:

Cost approach focuses on the net worth or net assets of a business. Under this method, adjustments are made to the company's historical balance sheet in order to present each asset and liability item at its respective fair market value. The difference between the total fair market value of the adjusted assets and the total fair market value of the adjusted liabilities is used to value a company. The value arrived at under this approach is based on the financial statements of the business and may be defined as Net-worth or Net Assets owned by the business.

(ii) Market Approach:

- Market Price Method - The market price of an equity shares as quoted on a stock exchange is normally considered as the value of the equity shares of that Company where such quotations are arising from the shares being regularly and freely traded in, subject to the element of speculative support that may be inbuilt in the value of shares.
- Comparable Companies Multiple (CCM) Method - Under this methodology, market multiples of comparable listed companies are computed and applied to the business being valued in order to arrive at a multiple based valuation.

(iii) Income Approach:

The income approach is appropriate for estimating the value of a specific income / cash flows stream with consideration given to the risk inherent in that stream. The most common method under this approach is discounted cash flow method. DCF uses the future free cash flows to available to equity shareholders of the company discounted by cost of equity, considering a risk factor measured by beta, to arrive at the present value. The DCF method is a strong valuation tool, as it concentrates on cash generation potential of a business. This valuation method is based on the capability of a company to generate cash flows in the future. The free cash flows are projected for a certain number of years and then discounted at a discount rate that reflects a company's cost of capital and the risk associated with the cash flows it generates. DCF analysis is based mainly on the following elements:

- Projection of financial statements (key value driving factors)
- The cost of capital to discount the projected cash flows

5. Services Provided by our firm for Valuation of Securities:

We at Manubhai & Shah LLP are providing professional services for Valuation of Securities for various purposes. Two of our partners are enrolled with Insolvency and Bankruptcy Board of India as Registered Valuers u/s. 247 of the Companies Act, 2013.



DUE DATES

Due dates of various compliances falling in the month of May 2022

S.No	Due Date	Act/Authority	Compliance Description
1	07-05-2022	Income Tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of April - 2022
2	10-05-2022	GST	GSTR-7 for the month of April - 2022 for persons required to deduct TDS
3	10-05-2022	GST	GSTR-8 for the month of April - 2022 for e-commerce operator required to Collect TCS
4	11-05-2022	GST	GSTR-1 for the month of April - 2022 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
5	13-05-2022	GST	GSTR-6 for the month of April-2022 for Input Service Distributor
6	15-05-2022	Income Tax	Filing of TCS returns for the quarter ended March 31, 2022
7	15-05-2022	PF/ESIC	Payment of PF / ESIC for the month of April - 2022
8	20-05-2022	GST	Payment of GST & Filing of GSTR-3B for the month of April - 2022, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year
9	20-05-2022	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of April-2022
10	25-05-2022	GST	GST Challan Payment if no sufficient Input Tax Credit for the month of April - 2022 for taxpayers opted for quarterly return monthly payment (QRMP)
11	30-05-2022	Income Tax	Furnishing of challan-cum statement of tax deducted under 194-IA, 194-IB and 194M in the month of April - 2022
12	30-05-2022	MCA	Filing of Annual return by Limited Liability Partnership (LLP) for the financial year 2021 - 2022
13	31-05-2022	Income Tax	Filing of TDS returns for the quarter ended March 31, 2022
14	31-05-2022	Income Tax	Furnishing details of reportable transactions for the financial year 2021-2022 in form 61A And 61B
15	31-05-2022	GujRera	Submission of Form - 05 for the F.Y. 2020 - 2021 after payment of processing fees



Manubhai & Shah LLP, a Limited Liability Partnership with LLP identity No. AAG-0878.

Manubhai & Shah LLP

Chartered Accountants

CORPORATE OFFICE

G-4, Capstone, Opp. Chirag Motors,
Gujarat College Road, Ellisbridge,
Ahmedabad - 380 006, Gujarat, India.
Phone : +91 79 2647 0000
Email : info@msglobal.co.in

MUMBAI OFFICE

3C Maker Bhavan No II,
18, New Marine Lines,
Mumbai - 400 020, Maharashtra, India.
Phone : +91 22 6633 3668/59/60
Fax : +91 22 6633 3561
Email : infomumbai@msglobal.co.in

Unit No-. 502,
5th Floor, Modi House,
Bajaj Cross Road, Kandivali (West),
Mumbai - 400 067,
Maharashtra, India,

NCR OFFICE

G-63, SFS, Gaurav Apartments,
New Delhi – 110 017
Phone : +91 98187 84187

KNOWLEDGE PROCESSING CENTRE

2nd Floor, "D" Wing,
Shivalik Corporate Park,
Behind IOC Petrol Pump,
132ft. Ring Road, Satellite,
Ahmedabad - 380 015, Gujarat, India.

13th Floor, A Block,
Ratnakar Nine Square,
Opp. Keshav Baug party Plot,
Mansi Road, Vastrapur,
Ahmedabad - 380 015, Gujarat, India.

BRANCHES

RAJKOT | JAMNAGAR | BARODA | UDAIPUR | GANDHINAGAR