

Manubhai & Shah LLP

Chartered Accountants

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Achieving Excellence in Client Service Through
Expertise & Experience

Covering Updates for the Month of November' 23
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RESPECTFUL HOMAGE TO OUR FOUNDER PARTNER & A GEM OF OUR PROFESSION- SHRI P.N.SHAH

We all at Manubhai & Shah LLP mourn the sad demise of CA Shri Pradyuman N Shah our senior most partner based at Mumbai office and popularly known as P. N. SHAH, an 'Icon' of the CA profession in true sense. Born on 1st January 1929 he departed for heavenly abode on 15th November, 2023. He was in C.A. profession for over seven decades. Right from the College days he was influenced by the Gandhian philosophy and principles. He was known for his integrity, ethics and simplicity and has followed these principles till the end.

He was a "One Man Institution" as he was a thorough master in Accounts, Companies Act and Income tax. He was the President of ICAI during 1983-84 and introduced many innovative changes in the profession. It was during his tenure as president of ICAI that he convinced the Central Government to introduce Tax Audit concept under Income Tax Act. He was instrumental in founding of South Asian Federation Of Accountants (SAFA) and was also its First President. In 1976, to create a common platform for all classes of Tax professionals on an All India basis, Shri N.C. Mehta founded the "All India Federation of Tax Practitioners" (AIFTP) and Shri P.N. Shah was its member since its inception.

He used to contribute articles in Journals of Bombay Chartered Accountants Society (BCA), Chamber of tax consultants, ICAI and AIFTP and newspaper 'Vyapaar' and other professional Journals regularly. He has contributed several papers on his favorite subjects of Income Tax at the Conferences and Seminars organized by BCA, AIFTP, Chamber of Tax Consultants, Forum of Free Enterprise and other professional bodies. His Publication on the Finance bill every year was always eagerly awaited by clients and CA fraternity as he used to interpret and analyse the same clause by clause in a very lucid language.

His interpretation of the Law was always a guiding factor to many professionals. He was always ready to guide young professionals and would not disappoint them for consultation even if he had to carve out time from his busy schedule to suit their convenience. He was a great listener and analyzer of facts who will listen to everyone very patiently and will come out with an effective solution. He was so active for the profession that even during the pandemic of COVID he used to write his articles and give opinions to the clients regularly.

He was an ardent follower of Gandhian Principles and would shut corruption by all means. His views on the multifaceted dragon of corruption were well known in his professional circle and in the Tax Department.

He led a simple life and possessed intellectual integrity and courage of his conviction. In that sense he was a "true professional" and a "Bhishma Pitamaha" of CA profession. We salute such a great personality and pay our respectful homage to the departed noble soul.

We all pray to ALMIGHTY that his soul may rest in eternal peace.

We will miss him.....always.



DIRECT TAX UPDATES

I. Circulars & Notifications

1. Discard of e-filed Income tax Return from A.Y.2023-24 and onwards

The Income tax Department has facilitated to the Assessee to discard his/her income tax return e-filed for A.Y. 2023-24 and onwards which is pending for verification. Such “Discard option” is available under “Income Tax Return” sub-menu under the portal. In this regard has released FAQ which is discussed here under:

1. Can assessee Discard Original ITR filed u/s 139(1) on 30.07.2023 which is pending for verification?

Reply:

Yes, assessee can avail the option of “Discard” for the ITRs being filed u/s 139(1) /139(4)/ 139(5) if they do not want to verify it. However, if the “ITR filed u/s 139(1)” is Discarded and the subsequent return is filed after the due date u/s 139(1), it would attract implications of belated return like 234F etc., Thus, it is advised to check whether the due date for filing the return u/s 139(1) is available or not before discarding any previously filed return.

2. Can a Discarded ITR be reversed ?

Reply:

No, Discarded ITR can not be reversed.

3. Can ITR be discarded in case ITR V posted to CPC is in transit and not yet reached CPC.?

Reply:

Where the ITR-V has already been sent to CPC which is in transit then such ITR can not be discarded since an assessee gives an undertaking to this effect before discarding the return.

4. How many times this “Discard” option can be availed ?

Reply:

Assessee can avail the “Discard” option only if the ITR status is “unverified” / “Pending for verification”. There is no restriction on availing this option multiple times”.

II. High Court Decision

Powers of Commissioner under section 264 of Income tax act to correct error committed by subordinate authorities & by assessee

Pramod R. Agrawal V. Pr.CIT -5, Mumbai [2023] 156 taxmann.com 126 (Bom)

Facts of the Case :

The assessee, a resident individual, has sold a flat and shown the same as capital gain in his income tax return without considering the allowance of indexed cost of improvement in respect of renovation expenses.

The Assessing Officer had made an addition under section 50C by taking the stamp duty value as full value of consideration while computing the capital gains arising from the sale of said flat. The Commissioner (Appeals) confirmed the addition made.

Thereafter, the assessee filed an application under section 154 on 04.11.2015 to rectify the previous orders passed by allowing the deduction of indexed cost of improvement of Rs. 2.95 lakhs being renovation expenses incurred in the year 1990. It had claimed in the application that the allowance of the said cost was not claimed in the original return of income and the same should be allowed as it was rectifiable defect under section 154.

The ITO, however, rejected the application filed by the assessee on the ground that claim was made first time in the application under section 154 and it was never brought to the notice earlier. Aggrieved by the order of the ITO, the assessee had filed an application under section 264 which was also rejected by the Pr.C.I.T.

It was held by the Bombay High Court :

“The proceedings under section 264 are intended to meet a situation faced by an aggrieved assessee, who is unable to approach the Appellate Authorities for relief and has no other alternate remedy available under the Act. The Commissioner is bound to apply his mind to the question whether the assessee was taxable on that income and his powers are not limited to correct the error committed by the subordinate authorities but could even be exercised where errors are committed by the assessee. It would even cover situation where the assessee because of an error has not put forth legitimate claim at the time of filing the return and the error is subsequently discovered and is raised for the first time in an application under section 264.”



ACCOUNTING UPDATES

A. EAC Opinion:

Residual Value of Gas Transmission Pipeline under IndAS framework

The relevant text of the Opinion is reproduced below:

“the Committee is of the opinion that:

- (i) The Company’s accounting policy to keep a standard residual value of 5% without considering all the facts and circumstances is not appropriate.
- (ii) The Company should determine the residual value of its various pipelines considering its facts and circumstances at the beginning of its useful life, which should be reviewed at the end of each financial year. Further, the estimated costs of disposal should also be considered as per the definition of residual value given in IndAS 16.

In such case, the pipeline would not be extracted and would just be abandoned, the residual value should be considered ‘nil’ as nothing can be sold as scrap or otherwise.

Further, in case, it is estimated that the pipeline would be extracted and sold, the cost attributable to extraction activity should also be considered/adjusted while determining the residual value.

EAC Opinion can be accessed at:

<https://resource.cdn.icai.org/77464cajournal-dec2023-32.pdf>



DUE DATES

Due dates of various compliances falling in the month of November 2023

Sr.No	Due Date	Act/Authority	Compliance Description
1.	07-12-2023	Income Tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of November - 2023
2.	10-12-2023	GST	GSTR-7 for the month of November - 2023 for persons required to deduct TDS
3.	10-12-2023	GST	GSTR-8 for the month of November - 2023 for e-commerce operator required to Collect TCS
4.	11-12-2023	GST	GSTR-1 for the month of November - 2023 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
5.	13-12-2023	GST	Filing of Invoice Furnishing Facility (IFF) for November- 2023 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option
6.	13-12-2023	GST	GSTR-5 by Non-resident taxable person carrying out business in India for the month of November - 2023
7.	13-12-2023	GST	GSTR-6 for the month of November - 2023 for Input Service Distributor
8.	15-12-2023	PF/ESIC	Payment of PF / ESIC for the month of November-2023
9.	15-12-2023	Income Tax	3rd Installment of Advance Tax for Assessment year 2024-2025
10.	20-12-2023	GST	Payment of GST & Filing of GSTR-3B for the month of November - 2023, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year
11.	20-12-2023	GST	GSTR-5A by Non-resident taxable OIDAR Service Provider for the month of November - 2023
12.	25-12-2023	GST	Payment of GST in form GST PMT-06 for the month of November-2023 for taxpayers who opted for Quarterly Return Monthly payment (QRMP) Option
13.	30-12-2023	Income Tax	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of November, 2023
14.	30-12-2023	Income Tax	TDS Payment for the month of November 2023 in Forms 26QB (Property), 26QC (Rent), and 26QD (Contractor Payments).
15.	31-12-2023	Income Tax	Furnishing of Belated/Revised Return of Income Tax for Assessment year 2023-2024
16.	31-12-2023	GST	Filing GSTR-9 and GSTR-9C- Annual Return and Reconciliation Statement for the Financial Year 2022-2023

“The harder you work for something, the greater you'll feel when you achieve it.”

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