

Manubhai & Shah LLP

Chartered Accountants

Ahmedabad • Mumbai • NCR • Rajkot • Jamnagar • Baroda • Gandhinagar • Udaipur

NEWSLETTER

JUNE 2023

VOL.39

Covering Updates for the Month of May' 23

For private circulation and clients only

CONTENTS

Direct Tax Updates

Company Law Updates

GST Updates

RBI Updates

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



DIRECT TAX UPDATES

I. CIRCULARS & NOTIFICATIONS

1. Exemption U/sec 10(10AA) to non-government employee on leave encashment

C.B.D.T. Notification No. 31 of 2023 dated 24.05.2023

CBDT has notified Exemption limit of Rs. 25 Lakhs on leave encashment received by a non-government employee U/sec 10(10AA). This amendment is effective from 01.04.2023 (Assessment Year 2023-24).

2. New Rule 133 for computation of net winning from online game for the purpose of section 115BBJ and section 194BA

C.B.D.T. Notification No. 28 of 2023 dated 22.05.2023

The Finance Act, 2023 inserted new sections 115BBJ and 194BA in regard to taxation of income on winnings from online game and deduction of tax at source. CBDT has inserted new Rule 133 providing method of computation of 'net winnings' from online game which can be accessed in the link given below:

<https://incometaxindia.gov.in/communications/notification/notification-28-2023.pdf>

3. GUIDELINES FOR COMPUTATION OF WINNING FROM ONLINE GAMING

C.B.D.T. Circular No. 5 of 2023 dated 22.05.2023

As mentioned in Para 2 above, the Finance Act, 2023 inserted a new section 194BA in the Income-tax Act, 1961 with effect from 1st April, 2023 under which a person responsible for paying to any person any income by way of winnings from any online game during the financial year is required to deduct income-tax on the net winnings at the time of withdrawal as well as at the end of the financial year. CBDT has notified Rule 133 providing manner of computation of 'net winnings'. In this regard CBDT has notified a Guidelines clarifying few issues which can be accessed in the link given below:

<https://incometaxindia.gov.in/communications/circular/circular-5-2023.pdf>

4. Exemption from Angel Tax Provision U/sec 56(2)(viib)

CBDT Notification No. 30/2023 dated 24.05.2023

CBDT has notified that the provisions of section 56(2)(viib) of the Income tax Act, 1961 shall not apply to consideration received by a start up company from an investor on issue of shares at a premium such shares, if such company fulfils the conditions specified in para 4 of the notification number G.S.R. 127(E), dated the 19th February, 2019 issued by the Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade and files the declaration referred to in para 5 of the said notification of the Department for Promotion of Industry and Internal Trade.

This notification is applicable w.e.f. the 1st day of April 2023.

5. Exemption from TDS on Interest on Mahila Samman Savings Certificate, (CBDT Notification No. 27/2023 dated 16.05.2023)

CBDT has notified that no TDS U/sec 194A(i)(c) shall be applicable on payment of interest upto Rs.40,000 on Mahila Samman Savings Certificate, with effect of this notification.

6. Clarification on application of section 115TD to Trusts

CBDT Circular No.6 of 2023 dated 24.05.2023

The Finance Act, 2023 has amended section 115TD of the Act w.e.f. 01.04.2023 (A.Y.2023-24) providing that if a charitable /religious Trust fails to apply for registration/ approval within the specified time shall be liable to tax on its accreted income under section 115TD of the Act.

However, several trusts could not apply for registration/ approval within the required time due to genuine reasons even within extended due dates. In order to mitigate genuine hardship in such cases, the CBDT has extended the due date for making various applications till 30.09.2023 which is summarised under,-

Form	Application
10A	application for seeking registration/approval by Existing Trust/Institution registered U/sec 10(23C) or Sec 12A or Section 80G before 25.11.2022
10A	application for seeking registration/approval by Existing Trust/Institution registered U/sec 10(23C) or Sec 12A or Section 80G after 25.11.2022 Note: The relevant functionality on the e-filing portal may be used for surrendering the Form No. 10A seeking provisional registration/approval and such trusts can make a new application in Form No. 10A for registration/ approval
10A	application for seeking provisional registration/approval by New Trust/Institution registered U/sec 10(23C) or Sec 12A or Section 80G
10AB	application for seeking Final registration/approval by Trust/Institution registered U/sec 10(23C) or Sec 12A
10AB	application for seeking Final registration/approval by Trust/Institution registered U/sec 10(23C) or Sec 12A made after 30.09.2022 but Pending for Approval of the Pr.CIT/CIT.
10BD	furnishing of statement of donation in respect of the donations received during the financial year 2022-23
10BE	Issuance of certificate of donation in respect of the donations received during the financial year 2022-23

Clarification regarding furnishing of Form 10/9A for statement of accumulation.

It is clarified that the statement of accumulation in Form No. 10/9A is required to be furnished at least 2 months prior to the due date of furnishing return of income U/sec 139(1) . It is now clarified that in certain specified cases if the above Forms are filed on or before the due date of furnishing the return of income the accumulation of income shall not be denied.

Clarification regarding audit report to be furnished in Form No_10B_

An Auditor of a Trust has to report in his report in Form No.10B/10BB about certain payments or application made in electronic modes and non-electronic modes.

It is hereby clarified that the reporting also includes payment by account payee cheque drawn on a bank or an account payee bank draft or by ECS through a bank account besides payments in electronic modes and non-electronic modes .

7. TCS on International Credit Card(ICC) U/sec 206C(1G)

CBDT PRESS RELEASE, DATED 19.05.2023

Section 206C (1G)(a) provides for collection of TCS by an authorised dealer from a buyer of foreign currency for remittance under Liberalised Remittance Scheme (LRS) of RBI.

RBI vide Notification dated 16.05.2023 has included payment through International Credit Card under LRS which is applicable from 01.07.2023. Accordingly, TCS under the provisions of section 206C(1G) shall be applicable on payment made using ICC on or after 01.07.2023.

However, CBDT has clarified that any payments by an individual using their international Debit or Credit cards upto Rs. 7 lakhs in a financial year will be excluded from the LRS limits and hence, will not attract any TCS.

8. E-Appeal Scheme,2023 before Joint Commissioner(Appeals)

(CBDT Notification No. 33/2023 dated 29.05.2023)

The finance Act,2023 has added Joint Commissioner(Appeals) as one of the Appellate Authority under sec 246A CBDT has now notified e-Appeal Scheme,2023 providing procedure of e-filing and of an appeal before Joint Commissioner (Appeals) as provided under section 246A of the Act.

An appeal against all the orders of assessment, reassessment, under section 200A(1)/201/206C(6A)/206CB(1), order imposing penalty under Chapter XXI and order under section 154 /155 can be filed before Joint Commissioner(Appeals).

The Scheme can be accessed using the below link:

<https://incometaxindia.gov.in/communications/notification/notification-33-2023.pdf>

9. Guidelines for selection of returns for complete scrutiny during F.Y.2023-24

(C.B.D.T. Circular F. NO. 225/66/2023 dated 24.05.2023)

The CBDT has notified the under mentioned parameters for compulsory selection of returns for Complete Scrutiny during F.Y.2022-23 :

i. Cases pertaining to survey u/s 133A.

However, cases where undermentioned conditions are satisfied are excluded from selection for compulsory scrutiny

- a. books of accounts, documents, etc. were not impounded during Survey;
- b. returned income (excluding any disclosure of undisclosed income made during the Survey) is not less than returned income of preceding assessment year; and
- c. assessee has not retracted from the disclosure referred to in point (b) above

ii. Cases pertaining to Search and Seizure

iii. Cases where no return has been furnished in response to a notice u/s 142(1) of the Income tax Act

iv. Notices u/s 148 of the Act have been issued

v. Cases where registration/approval under various sections of the Act, such as section 12A, 35(i)(ii) / (iia)/ (iii), 10(23C), etc. have not been granted or have been cancelled/withdrawn by the Competent Authority, yet the assessee has been found to be claiming tax-exemption/deduction in the return.

vi. Where the addition in an earlier assessment year(s) on a recurring issue of law or fact (including transfer pricing issue) exceeding Rs. 25 lakhs in eight metro charges (Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune) and in other charges exceeding Rs. 10 lakhs.

vii. Cases related to specific information regarding tax-evasion is provided by any law-enforcement agency, (Investigation Wing/ Intelligence/ Regulatory Authority/ Agency, etc.)

10. Exclusion of equity shares received of a non-government company from Government as income from other sources U/sec 56(2)(x)

(CBDT Notification No. 35/2023 dated 31.05.2023)

CBDT has amended Rule 11UAC(4) for the purpose of exclusion of equity shares received by an investor from Government under strategic disinvestment under clause (XI) to the Proviso to section 56(2)(x)(c).

Accordingly, after this amendment which is applicable from 01.04.2023 (A.Y.2023-24), equity shares of any company an investor from Government under strategic disinvestment scheme are exempted from tax under section 56(2)(x) since the same are covered under exclusion as provided under clause (XI) to the Proviso to section 56(2)(x)(c).



COMPANY LAW UPDATES

I. MCA Updates

A. Second Amendment in Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016:

A proviso has been inserted in Rule 4(1) of the said rule which states that the Company shall file an application for voluntary strike off only after filing of overdue financial statements and annual returns upto the end of financial year in which Company ceased its business operations.

Further in case the application is filed pursuant to an action initiated by the Registrar, the Company shall file all pending financial statements and annual returns.

Circular can be accessed at:

<https://www.mca.gov.in/bin/dms/getdocument?mds=NayTkLw9l%252BWYjFrBKAUtDQ%253D%253D&type=open>

B. Amendment in Companies (Compromises, Arrangements and Amalgamations) Rules, 2016:

The timelines and procedures for action to be taken by Central government to the scheme filed u/s 233 in case of objections or suggestions are received or not received from Registrar of Companies and Official Liquidator have been prescribed. The said amendment shall be effective from 15th June, 2023.

Circular can be accessed at:

<https://www.mca.gov.in/bin/dms/getdocument?mds=1Wyd8lldgilFPq8Dx6A3QA%253D%253D&type=open>



Special All-India Drive Against Fake Registration

1. Preamble/Background

A National Co-ordination Meeting was held on 24th April 2023 wherein it was discussed that Fake/Non-Genuine Registrations are being used to pass on the Input Tax Credit to fraudulent recipients by issuing Invoices without Actual Supply of Goods or Services or both. This Threat of Fake Registrations and issuance of fake Input Tax Credit are causing great revenue loss to the government.

Various manner of obtaining such fake Registrations have been exposed by Central and State authorities. In some cases, forged documents such as forged electricity bills, property tax receipts, rent agreements, etc are being used as proof of principal place of business to obtain GST Registration.

In a recent case in Gujarat, it has been found that a few fraudsters have obtained fake GST Registrations on the basis of PAN and Aadhaar number of persons from economically weaker sections without their knowledge. It was revealed that phone numbers on the Aadhaar Cards of these persons were got fraudulently modified at the nearest Aadhaar Seva Centre, under the false cover of the government and on the sake of a nominal cash amount, these fraudulent persons take these persons (whose PAN and Aadhaar are attached for fake registrations) to the Aadhaar Seva Centers and getting their Aadhaar Card linked to dummy mobile number by using their Thumb impression.

The meeting participants agreed that coordinated and concerted action is necessary to address this problem in a more systematic way.

2. Decision in Meeting

During the National Co-ordination meeting of the State and Central GST Officers held at New Delhi on 24th April 2023, this matter of corrupt elements misusing the identity of other persons to obtain fake Registration under GST was considered.

It was discussed that there is a need of concerted and coordinated action on a mission mode by Central and State Authorities to tackle this problem of fake registration and fake Input Tax Credit in a more systematic manner

It was then decided that CBIC shall initiate a two-month Special Drive to detect fake GST Registrations and suspicious GSTINs who are passing on Input Tax Credit fraudulently to recipients without actual supply of Goods or Services or both and take action against them to prevent any further revenue loss to the government.

3. Guidelines for Special All-India Drive

It was decided that a nation-wide effort in the form of a Special Drive should be launched on all India basis to detect such fake registrations and to conduct requisite Investigation to prevent any further revenue loss to the government. CBIC vide Instruction No-01/2023-GST dated 04.05.2023 issued Guidelines for Special All-India Drive against Fake Registrations.

The following guidelines are issued for such concerted action on fake dealers/fake billers:

i. Period of Special Drive

A Special All India Drive shall be launched during the period 16th May 2023 to 15th July 2023 to detect fake GSTINs and to conduct requisite Investigation and further remedial action need to be taken to eliminate these fake billers from the GST Eco-system and to safeguard Government Revenue.

ii. Identification of fraudulent GSTINs

GSTN will identify such fraudulent GSTINs for State and Central Tax Authorities based upon detailed data analytics and risk parameters. GSTN will share the details of such identified suspicious GSTINs with the concerned Central/State authorities for initiating Investigation of these GSTINs and conducting necessary action on these GSTINs.

iii. Information sharing mechanism

A nodal officer will be appointed by each of the Zonal CGST and SGST Zone and the Nodal officer of the State/CGST Zone will ensure that the data received from GSTN/ DGARM/ other tax administrations is made available to the concerned jurisdictional formation within two days positively.

iv. Action to be taken by field formations

- Investigation of the suspicious GSTINs shall be undertaken by the concerned jurisdictional tax officer(s) on receipt of data from GSTN/DGARM. If after detailed Investigation, it is found that the taxpayer is fake and fictitious, the GST Officer may initiate an action for suspension and cancellation of the registration of the said fake taxpayer in accordance with the provisions of Section 29 of CGST Act read with rules thereof.
- Input Tax Credit lying in Electronic Credit Ledger may be blocked as per the provisions of Rule 86A of CGST Rules.
- Additionally, the details of the recipient to whom Input Tax Credit has been passed on by the non-existing taxpayer may be identified with the help of GSTR-1 filed by the taxpayer in past.
- In case the recipient GSTIN pertains to the same jurisdiction of the said tax authority itself, suitable action for demand and recovery of the Input Tax Credit wrongly availed by such recipient on the basis of Tax invoice issued by such fake taxpayer, without supply of Goods or Services or both.
- In case the recipient GSTIN pertains to different jurisdiction, the details of the case along with the relevant documents/evidence may be sent to the concerned tax authority as early as possible.
- Action may also be taken to identify the masterminds/beneficiaries behind such fake GSTIN wherever required.
- Further, action may be taken for recovery of Government dues and/ or provisional attachment of property/Bank accounts, etc as per the provisions of Section-83 of CGST Act. Further if any associated suspicious GSTIN is detected during the Investigation process, similar action may be initiated against that GSTIN.

4. Care to be taken by taxpayers / registered persons

It would have been helpful if the instructions provided by the tax authorities also included details of the primary information that field officers would verify during field visits. This would enable taxpayers to keep the necessary documentation ready and avoid requests for irrelevant information during the registration process.

Since the instructions do not cover these details, we have compiled a list of basic things that taxpayers should keep in mind during a field visit:

- Ensure that there is only one registration on the premises unless there are clear demarcations for each registration to identify the area and stock.
- Display the registration certificate at a prominent location at the principal place of business and every additional place of business, as required by Rule 18(1) of the CGST/SGST Rules. Failure to do so may result in a penalty of Rs. 50,000.
- Display the GSTIN on the name board at the principal place of business and every additional place of business, as required by Rule 18(2) of the CGST/SGST Rules. Failure to do so may result in a penalty of Rs. 50,000.
- Ensure that apart from Principal place of business, all additional place of businesses are registered with GST from where taxable goods are stored, supplied, warehoused etc.
- Documents required for demonstrating registration eligibility at the time of inspection- As applicable:

- Constitution documents of the entity (e.g. partnership deed, company registration certificate etc.)
- Latest electricity Bill
- Consent Letter/NOC
- Municipal Khata Receipt or Property Tax Receipt
- Latest Index copy
- Rent agreement should be valid, if expired then renew the agreement
- Keep KYC documents of Proprietor, directors / partners and authorized person ready for verification along with presence of any of them to the best extent possible.
- Bank Statement or cancelled cheque
- Authority letter or board resolution or any other document authorizing appointment of authorized person

Since the special drive focuses on verifying the existence of persons who have obtained registration and the existence of their business place, the above details should be sufficient. However, as a precaution, it is recommended that taxpayers regularly update the following details:

- The stock and sale/purchase invoices along with other documents if found at the registered place of business, then it is assumed that it pertains to registered person and accordingly it shall be dealt with.
- Make sure that the physical stock matches with the books stock (This is anyways mandatorily required as per Section 35 – Maintenance of accounts and records). Highlighting herewith only for the clarification that there is no delay in accounting resulting into the deferment of physical and book stock.
- Keep books of account as specified in Section 35 read with Rule 56 at the principal place of business and any additional place of business mentioned in the certificate of registration. These books of account should include any electronic form of data stored on any electronic device.

In conclusion, the Special All-India Drive against fake registration is an important step taken by the Central and State authorities to address the problem of fake registrations and fake Input Tax Credit, which has been causing revenue loss to the government. The guidelines issued for this drive provide a comprehensive framework for the identification and investigation of fraudulent GSTINs, and the necessary actions that need to be taken against them. Taxpayers and registered persons are advised to cooperate with the authorities during this drive and ensure compliance with the regulations. The success of this drive will go a long way in ensuring the integrity of the GST system and preventing revenue loss to the government.



RBI UPDATES

Levy of charges on forex prepaid cards/store value cards/travel cards, etc.

A.P. (DIR Series) Circular No. 04 dated May 09, 2023

International Debit Cards/Store Value Cards/Charge Cards/Smart Cards or any other instrument that can be used to create a financial liability, as currency. In this regard, a few Authorized Persons are levying certain fees/charges, which are payable in India on such instruments, in foreign currency. Such fees / charges payable in India will now have to be denominated and settled in Rupees only.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12502&Mode=0>

DUE DATES

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

S.No	Due Date	Act/Authority	Compliance Description
1.	07-06-2023	Income tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of May-2023
2.	10-06-2023	GST	GSTR-7 for the month of May-2023 for persons required to deduct TDS under GST Regime
3.	10-06-2023	GST	GSTR-8 for the month of May-2023 for e-commerce operators required to Collect TCS
4.	11-06-2023	GST	GSTR-1 for the month of May-2023 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
5.	13-06-2023	GST	GSTR-5 by Non-resident taxable person carrying out business in India for the month of May-2023
6.	13-06-2023	GST	GSTR-6 for the month of May-2023 for Input Service Distributor (ISD)
7.	15-06-2023	PF/ESIC	Payment of PF / ESIC for the month of May-2023
8.	15-06-2023	Income tax	Payment of First Instalment of advance tax for assessment year 2024-2025
9.	20-06-2023	GST	Payment of GST & Filing of GSTR-3B for the month of May -2023, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year or who have opted to file Monthly Return
10.	20-06-2023	GST	GSTR- 5A by Non-resident taxable OIDAR service provider for the month of May-2023
11.	25-06-2023	GST	GST Challan Payment if no sufficient Input Tax Credit for the month of May - 2023 for taxpayers opted for quarterly return monthly payment (QRMP)
12.	30-06-2023	Income tax	Furnishing of challan-cum statement of tax deducted under 194-IA, 194-IB, 194M and 194S in the month of May-2023
13.	30-06-2023	Income tax	Linking Aadhar number with PAN to avoid PAN becoming inoperative

"THE DIFFERENCE BETWEEN WINNING AND LOSING IN MOST OFTEN NOT QUITTING"

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,
Phone : +91 224 960 6695/ 96

NEW DELHI 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



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

Disclaimer: This newsletter is meant purely for general education purpose. While the information is believed to be accurate to the best of our knowledge, we do not make any representations or warranties, express or implied, as to the accuracy or completeness of this information. Reader should conduct and rely upon their own examination and analysis. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.