Manubhai & Shah LLP
Chartered Accountants
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Achieving Excellence in Client Service Through
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Covering Updates for the Month of March' 24

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DIRECT TAX UPDATES

I. Circulars & Notifications

1. No Deduction of T.D.S. on specified payments made by any payer to an IFSC Unit

(C.B.D.T. Notification No. 28/2024/F.NO. 275 Dated 07.03.2024)

The Central Government has notified vide this Notification that no TDS shall be deducted under the provisions of the Income-tax Act in regard to below mention nature of payments, made by any 'payer' to a person (payee) being a Unit of International Financial Services Centre (IFSC) subject to fulfilment of conditions: -

List of payments receivable by a Unit of IFSC:

Sr. No.	Unit in IFSC (Payee)	Nature of Receipt	Section
1	Banking Unit	Interest income on External Commercial Borrowings/Loans	195
		Professional fees	194J
		Referral Fees	194H
		Brokerage income	194H
		Commission income on factoring and for fainting services	194H
2	IFSC Insurance Intermediary office	Insurance commission	194D
3.	Finance Company	Interest income on External Commercial Borrowings / Loans	195/ 194A
		Dividend income	194
		Commission income on factoring and forfaiting services	194H
4.	Finance Unit	Interest income on External Commercial Borrowings / Loans	195/ 194A
		Dividend income	194
		Commission income on factoring and forfaiting services	194H
5.	Fund Management entity	Professional fee	194J
6.	Broker Dealer	Dividend	194
7.	Investment advisor	Investment advisory fee	194J
8.	Registered Distributor	Distribution fee and Commission fee	194H
9	Custodian	Professional fee	194J
		Commission fee	194H

10	Credit rating agency	Credit rating fee	194J
11	Investment banker	Investment banker fee	194J
12	Debenture trustee	Trusteeship fee	194J
13.	International Trade Finance Service or "ITFS"	Commission income	194H
14.	Fin Tech Entity	Technical fee/ Professional fee	194J
		Commission income	194H

Conditions for No TDS:

i. The Payee shall furnish a statement-cum-declaration in Form No. 1 to the 'payer' giving details of previous years relevant to the ten consecutive assessment years for which the deduction under section 80LA of the Income-tax Act is opted; and

ii. such Form No. 1 shall be furnished for each previous year relevant to the ten consecutive assessment years.

Accordingly, the said relaxation of No TDS shall be available to the 'payee' only during the previous year's relevant to the ten consecutive assessment years as declared by the 'payee' in Form No. 1 for which deduction under section 80LA is being opted. The 'payer' shall be liable to deduct tax on payments in regard to the above nature of transactions for any other year.

The above Notification is effective from 1st April,2024.

2. Filing of Modified Income tax Return by Successor Company U/sec 170A issued before 01.04.2022.

(C.B.D.T. Order No.225/5/2021 dated 13.03.2024)

The Finance Act,2022 introduced section 170A providing a successor company to file a modified income tax return in Form No. ITTR-A within six months from the end of month of issuance of order from Tribunal/Court of Business Reorganizations, i.e. amalgamation, demerger or merger of companies.

On consideration of difficulties being faced by such entities in electronic filing of return of income pursuant to order of Tribunal /Court issued during the period 01.6.2016 to 31.03.2022, the CBDT vide this Order allows the successor companies to furnish the modified tax return for the relevant assessment year(s) using functionality on e-filing portal "u/s 119(2)(b) - after condonation of delay/ Court Order or Sanction Order of Business reorganization of the Competent authority issued prior to 1-4-2022" on or before 30.06.2024.However, the Successor Company has to bide the following timeline :

Action	**Timeline Date**
Communication by Successor Company to the Jurisdictional Assessing Officer (JAO)	Up to 30.04.2024
Completion of verification by the JAO & enablement on e-filing portal	Within 30 days of receipt of Application
E- filing of modified tax return A	Up to 30.06.2024

It is also clarified that no separate application u/sec 119(2)(b) of the Act is required to be filed before the Board by the successor companies in cases where the order of business reorganization of the competent authority was issued during the period 01.6.2016 to 31.03.2022.

3. Waiver of Late Fee U/sec 234E & Interest U/sec 201(1A) on delayed filing Form 26QE for TDS U/sec 194S of the Act for F.Y. 2022-23

(C.B.D.T. Cir. No. 4/2024 dated 07.03.2024)

As per section 194S of the Income-tax Act, 1961 ("the Act"), any person responsible for paying to any resident person any sum by way of consideration for the transfer of a virtual digital asset (VDA) is required to deduct tax @1% on the same and is required to report such deductions in a challan-cum-statement electronically in Form No.26QE within 30 days from the end of the month in which such deduction is made.

In order to address the grievances of such specified persons, the C.B.D.T. vide this Circular has waived Late Fee leviable U/sec 234E and/or interest chargeable U/sec 201(1A)(ii) of the Act on delayed filing of Form No.26QE till 30.05.2023, in those cases where the tax was deducted by specified persons U/sec 194S of the Act during the period from 01.07.2022 to 28.02.2023.

4. Amendment in Form No. 3CD

(C.B.D.T. Notification. No. 27/2024 dated 05.03.2024)

CBDT has amended few clauses in Form No.3CD effective from Assessment Year 2024-25. Few important changes in Form 3CD are as under:

Clauses in Part B	Existing Clause	Substituted by/Inserted	Our Comments
Clause 21 (a)	Expenditure by way of penalty or fine for violation of any law for the time being force after the row with the words "Expenditure by way of any other penalty or fine not covered above words "Expenditure incurred for any purpose which is an offence, or which is prohibited by law",	"Expenditure **for any purpose which is an offence or is prohibited by law or** expenditure by way of penalty or fine for violation of any law **(enacted in India or outside India)** **"Expenditure incurred to compound an offence under any law for the time being in force, in India or outside India" shall be inserted.** Substituted by the words "Expenditure incurred to **provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person"**	Words" Expenditure **for any purpose which is an offence or is prohibited by law" has been inserted. Also, any such expenditure for violation of any Law in India or outside India has been inserted.** Extended reporting of any expenditure incurred to compound an offence under any Law in India or outside India. Reporting on any freebies given to professional such as medical practitioner which is **in violation of any law or rule or regulation or guideline issued governing the conduct of such person**
Clause 22		Insertion of clause "or any other amount not allowable under clause (h) of section 43B of the Income-tax Act, 1961"	Reporting on disallowances under section 43B(h) in regard to non-payment of dues to Micro/Small Enterprises under the provisions of the MSME Act,2006

5. **Guidelines for priority/out of turn disposal of Appeal by CIT(A/AU)/Addl.Jt.CIT(Appeals) (C.B.D.T. LETTER F. NO. 279/Misc. dated 07.03.2024)**

CBDT has issued Guidelines for disposal of pending appeals at the level of CIT(A/AU) and Addl./Jt.CIT(Appeals), on priority/out of turn basis against an application by the appellant or referred by the Assessing Officer covering genuine and exceptional circumstances to the Pr.CCIT/CCIT/DGIT in the following situations –

i. Cases having demand above Rs.1 Cr, or
ii. Cases where a VIP/PMO reference is received for expeditious disposal, or
iii. Cases where directions to this effect have been issued by the Courts, or
iv. Cases where request is made by senior citizens and/or super senior citizens, or
v. Any other case of genuine hardship

It is also clarified that in respect of pending appeals before the faceless CIT(AU), such requests shall be referred to Pr.CCIT(NFAC) for onward communication to respective CIT(AU).

6. **DTAA with Spain - Article 13 - Reduction in rate of TDS on Royalty & FTS (C.B.D.T. Notification. No. 33/2024 dated 19.03.2024)**

The Government of India and the Kingdom of Spain has substituted Clause 2 of Article 13 of the DTAA between India & Spain. Accordingly, the rate of TDS on payment for Royalty or Fees for Technical Services (FTS) is reduced to 10% as against 20%.

The above reduced rate of TDS is effective from Assessment Year 2024-25.

II. Supreme Court Decision

Discounted Sale Price to distributors/franchisees is not 'Commission' and not liable for TDS U/sec 194H

Bharti Cellular Ltd. V.ACIT [2024] 160 taxmann.com 12 (SC)

Facts of the case :

Assessees, a cellular mobile telephone service providers entered into agreements with distributors/franchisees for sale of its prepaid products. The assessees sold the start-up kits and recharge vouchers of the specified value at a discounted price to the franchisee/distributors. AO was of the view that the difference between 'discounted price' and 'sale price' in the hands of the franchisee/distributors being in the nature of 'commission or brokerage' income of the franchisee/ distributors, the relationship between the assessees and the franchisee/distributor is in the nature of principal and agent, and therefore, the assessees are liable to deduct tax at source under Section 194-H of the Act.

Held by the Supreme Court that :

"The obligation to deduct tax at source in terms of Section 194-H of the Act arises when the legal relationship of principal-agent is established. **Sale price of prepaid products sold by distributors/franchisees to retailers or customers was within sole discretion of distributors/franchisees and assessees had no say in this matter. Further, contractual obligations of distributors/franchisees did not reflect a fiduciary character of relationship or business being done on principal's account. It was found that assessees neither paid nor credited any income to distributor/franchisee. Further, it was observed that legal position of distributor was different from that of an agent, its rights were akin to a franchisee and unlike an agent, he did not act as a communicator or creator of a relationship between principal and third party. Therefore, assessees would not be under a legal obligation to deduct tax at source under section 194H on income/profit component in payments received by distributors/franchisees from third parties/customers, or while selling/transferring pre-paid coupons or starter-kits to distributors".**

III. Tribunal Decision

Due diligence Expenditure incurred on pre-acquisition of Share Capital of paints manufacturing company is Capital Expenditure

Asian Paints Ltd. V. ACIT [2024] 160 taxmann.com 356 (Mumbai - Trib.)

Facts of the case :

Assessee's wholly owned subsidiary in Mauritius, signed an agreement with shareholders of KCIPLC, Ethiopia to acquire, either directly or through its subsidiaries, 51 per cent of its share capital, i.e. majority shareholding in KCIPLC, Ethiopia.

The Assessing Officer opined that the assessee incurred expenditure on pre-acquisition due diligence on acquisition of the paint manufacturing company in Ethiopia which was liable to be treated as capital expenditure and not allowable as revenue expenditure.

The Tribunal held at Para 20 that: :

"It is pertinent to note that the expenditure was not incurred on exploring the decorative paints market in Ethiopia but the same was in relation to pre-acquisition due diligence of a company, i.e. Kadisco Chemical Industry PLC., Ethiopia, which is manufacturing and selling paints, other coatings and adhesives in Ethiopia .

Therefore, from the documents available on record, it is evident that the impugned expenditure was incurred towards the process of acquisition of majority shareholding in Kadisco Chemical Industry PLC., Ethiopia, which is a capital transaction. In any case, the expenditure cannot be said to be in line with the existing business of the assessee of manufacturing paints and enamels or an extension of the existing line of business of the assessee, as the expenditure was incurred on pre-acquisition due diligence of the company which cannot be equated with market survey or preparing feasibility report for extension of the business. Accordingly, this expenditure is held to be capital in nature."

ACCOUNTING UPDATES

A. EAC Opinion:

Presentation of standby, stoppage and allied costs incurred during force majeure in the project in the Statement of P&L

Query

The querist has sought the opinion of the Expert Advisory Committee as to whether:

(i) *Considering the frequent occurrences of force majeure in E&P industry generally and in the Company's projects particularly, the stoppage and standby expenditure incurred by the Company during the force majeure period in Project A has been correctly shown by the Company in the Note on 'Other Expenses' as a separate line item distinct from other items of 'Other Expenses' along with detailed disclosure; OR the said stoppage and standby expenditure were required to be presented as 'Exceptional items' as a separate line item on the face of the Statement of Profit and Loss.*

(ii) *The borrowing costs associated with the qualifying assets of Project A have been correctly charged off by the Company to the Statement of Profit and Loss as finance costs due to suspension of development activities in the Project due to declaration of force majeure therein; OR the said borrowing costs are required to be presented as exceptional items on the face of the Statement of Profit and Loss.*

The relevant text of the Opinion is reproduced below:

"The Committee is of the opinion that:

(i) *Considering the specific facts and circumstances of the Company, having global presence in oil and gas sector and its past experience, the stoppage and standby expenditure incurred during force majeure (although may meet the test of 'materiality'), should not be presented as exceptional items in the Statement of Profit and Loss. However, since these are 'material', the Company should disclose their nature and amount separately, as per the requirements of paragraph 97 of Ind AS 1 and may also present these items by disaggregating, headings and subtotals under their respective heads in the Statement of Profit and Loss when such presentation is relevant to an understanding of the entity's financial performance, along with appropriate disclosures in the notes to financial statements, as per the requirements of paragraph 85 of Ind AS 1.*

(ii) *the 'borrowing costs' (although arising during temporary suspension of construction or development activities) is of the nature of a 'finance cost', which is a common expense for any kind of business. In other words, the nature of finance costs does not change due to suspension of construction activities because of force majeure and therefore, its nature cannot be considered as 'exceptional'. Thus, considering the requirements of Schedule III and Ind AS, the Committee is of the view that borrowing cost in the extant case should be presented as a part of 'Finance costs' and not as an exceptional item in the Statement of Profit and Loss.*

EAC Opinion can be accessed at:

https://resource.cdn.icai.org/79720cajournal-apr2024-32.pdf

B. EAC Opinion:

Accounting treatment of pre-project expenses for which fund approval is pending under Ind AS framework

Query

The querist has sought the opinion of the Expert Advisory Committee with respect to transaction undertaken by the Company on the following issues:

(i) Whether or not the Company's accounting treatment for not making provision for expenses incurred in the books of account in the absence of fund source and not providing for liability for the same is books of account was in order.

(ii) If not, what accounting/disclosure methodology would have been adopted by the Company with respect to such transaction and/or situation?

The relevant text of the Opinion is reproduced below:

"The Committee is of the opinion that:

(i) The present accounting treatment followed by the Company of not recognising the liability in respect of expenses incurred (but not approved) in the financial statements for the F.Y. 2021-22 is not correct

(ii) The Company should have recognised a liability in respect of the pre-project expenses when the pre-project activities are executed by the supplier of goods or services and as a result of which, a present obligation arises on the Company to pay cash to the supplier. Since the Company did not follow the above-mentioned accounting treatment, the same, if material, should be rectified in the current reporting period, considering it as an error, as per the requirements of Ind AS 8.

EAC Opinion can be accessed at:

https://resource.cdn.icai.org/79217cajournal-mar2024-34.pdf

Article on: Harnessing technology

Article on:- Harnessing technology for P2P efficiency

After understanding basics of P2P and the challenges faced, its time to explore more into the world of procurement to pay cycle in any business.

In the dynamic landscape of finance and accounting, the role of technology has become increasingly pivotal, particularly within the scope of procure-to-pay (P2P) processes. For modern businesses, optimizing procurement processes not only ensures cost-effectiveness but also minimizes risks and enhances operational efficiency. In this regard, the integration of technology into P2P operations has emerged as a transformative force, redefining traditional approaches and empowering internal audit functions.

Traditionally, procurement processes were laden with manual tasks, prone to errors, delays, and inconsistencies. However, with the advent of innovative technologies such as Artificial Intelligence (AI), Robotic Process Automation (RPA), and advanced analytics, organizations can streamline their P2P workflows significantly. AI-powered systems can analyze vast datasets to identify potential cost-saving opportunities, negotiate with suppliers, and even predict future demand patterns, thereby enabling proactive decision-making.

Let's delve into specific ways as to how technology can be leveraged within P2P process:

1. **E-Procurement Solutions:** Implementing e-procurement platforms enables organizations to digitize the entire procurement process, from requisition to payment. These solutions offer centralized repositories for supplier catalogs, streamlining the purchasing process while providing greater visibility and control over expenditures.
2. **Automated Purchase Orders (Pos):** Automation tools can generate purchase orders automatically once requisitions are approved, reducing manual errors and processing time. Integration with ERP systems ensures seamless data flow, eliminating the need for manual data entry and enhancing accuracy.
3. **Supplier Portals:** Providing suppliers with self-service portals facilitates collaboration and transparency. Through these portals, vendors can submit invoices, track payment statuses, and update their information, fostering efficiency and strengthening vendor relationships.
4. **Invoice Automation:** Invoice automation software utilizes optical character recognition (OCR) technology to extract data from invoices and match them with corresponding POs or contracts. By automating invoice validation and approval workflows, organizations can expedite processing times, prevent duplicate payments, and optimize cash flow management.
5. **Electronic Payments:** Transitioning from paper-based checks to electronic payment methods such as ACH transfers or virtual credit cards offers numerous benefits, including faster payment processing, reduced costs, and enhanced security. Integration with banking systems enables straight-through processing, minimizing manual intervention.
6. **Advanced Analytics:** Leveraging data analytics tools enables organizations to gain actionable insights into P2P processes. By analyzing historical spending patterns, identifying cost-saving opportunities, and monitoring key performance indicators (KPIs) in real-time, organizations can make informed decisions and drive continuous improvement.
7. **Supplier Relationship Management (SRM) Systems:** SRM systems enable organizations to manage supplier information, assess vendor performance, and mitigate risks effectively. By consolidating supplier data and implementing performance metrics, organizations can optimize supplier selection, negotiate favorable terms, and ensure compliance with contractual agreements.

8. **Blockchain Technology:** Implementing blockchain technology enhances transparency and security within the P2P process. By recording transactions in tamper-proof, decentralized ledgers, organizations can mitigate the risk of fraud, ensure data integrity, and streamline reconciliation processes.

9. **Mobile Applications:** Mobile applications empower stakeholders to access P2P systems anytime, anywhere, facilitating remote approvals, expense reporting, and invoice tracking. Mobile capabilities enhance user experience, driving greater adoption and productivity across the organization.

10. **Artificial Intelligence (AI) and Machine Learning (ML):** AI and ML algorithms can analyze vast datasets to identify anomalies, predict demand patterns, and optimize procurement strategies. By automating routine tasks such as spend analysis, contract management, and supplier performance evaluations, organizations can free up valuable resources and focus on strategic initiatives.

    In conclusion, the integration of technology within the procure-to-pay (P2P) process represents a transformative shift in the way organizations manage their procurement operations. As we navigate the complexities of modern business, one thing remains clear: technology is not merely a tool but a catalyst for transformation, reshaping the future of procurement and paving the way for sustainable growth and prosperity.

DUE DATES

Due dates of various compliances falling in the month of April 2024

Sr.No	Due Date	Act/Authority	Compliance Description
1	4/7/2024	Income Tax	Deposit of Tax Collected at source (TCS) during the month of March – 2024
2	4/10/2024	GST	GSTR-7 for the month of March - 2024 for persons required to deduct TDS
3	4/10/2024	GST	GSTR-8 for the month of March - 2024 for e-commerce operator required to Collect TCS
4	4/11/2024	GST	GSTR-1 for the month of March - 2024 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
5	4/13/2024	GST	GSTR-1 for the quarter ended March-2024 for taxpayers who opted for Quarterly Return Monthly payment (QRMP) Option
6	4/13/2024	GST	GSTR-5 by Non-resident taxable person carrying out business in India for the month of March - 2024
7	4/13/2024	GST	GSTR-6 for the month of March - 2024 for Input Service Distributor
8	4/15/2024	PF/ESIC	Payment of PF / ESIC for the month of March-2024
9	4/18/2024	GST	CMP-08- Statement cum Challan for the quarter ended on March-2024 for composition Dealer
10	4/20/2024	GST	Payment of GST & Filling of GSTR-3B for the month of March - 2024, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year or who have opted to file Monthly Return
11	4/20/2024	GST	GSTR-5A by Non-resident taxable OIDAR Service Provider for the month of March - 2024
12	4/22/2024	GujRera	Quarterly Progress Report (QPR) Compliances for the financial quarter ended March 31, 2024.
13	4/22/2024	GST	Payment of GST & Filling of GSTR-3B for the Quarter ended March-2024 for taxpayers with Aggregate turnover upto INR 5 crores during previous year and who opted for Quarterly Return Monthly payment(QRMP) Option depending on place of business(State)
14	4/24/2024		Payment of GST & Filling of GSTR-3B for the Quarter ended March-2024 for taxpayers with Aggregate turnover upto INR 5 crores during previous year and who opted for Quarterly Return Monthly payment(QRMP) Option depending on place of business(State)
15	4/30/2024	GST	Filing of Annual Return in GSTR- 4 for the year ended on March-2024 for composition Dealer
16	4/30/2024	GST	Opting in/out of Quarterly Return Monthly Payment (QRMP) option by submitting CMP-02 for Financial year 2024-2025
17	4/30/2024	Income Tax	Furnishing of Challan Cum Statement for tax deducted under section 194-IA,194-IB,194M and 194S (for specified person) in the month of March 2024
18	4/30/2024	Income Tax	Deposit of Tax deducted at source (TDS) during the month of March, 2024
19	4/30/2024	MCA	Filing of MSME-1 in respect of outstanding payment by company to Micro and Small Enterprise as at March 31, 2024

"THE BEST WAY TO PREDICT THE FUTURE IS TO CREATE IT."

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.

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