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Income Tax

- + **Disclosure requirements for persons engaged in specified activities:** The Income-tax Act, 1961 ('ITA') provides additional reporting for certain specified persons engaged in the production of cinematograph films. The reporting relates, inter alia, to details of films produced, whether such film is completed or not, details of payment made to persons exceeding Rs. 50,000. This additional reporting, with appropriate amendments in the filing requirement, is now extended to the persons involved in the following specified activities:
- Event management;
 - Documentary production;
 - Production of programmes for telecasting on television / Over The Top platform / any other similar platform;
 - Sports event management;
 - Other performing arts; and
 - Any other activity as may be notified by the Central Government.

Notification No 109 of 2022, dated 14.09.2022

- + **Compliance requirements for successor companies in cases of business re-organization:** The Central Government vide the Finance Act, 2022 required the successor company in a business re-organization to file a modified return within 6 months from the end of the month in which such order approving the re-organization was passed by the respective adjudicating authority. In this regard, the CBDT, has effective 01.11.2022, notified the rules for filing such modified form and made amendments to form ITR-6 to enable the filing of the said modified return. Further, a new form, Form ITR-A has also been notified. This comprises of, inter alia, details regarding the authority passing the order of re-organization, details of the predecessor and successor entities of the re-organization, relevant year etc.

Pursuant to the above notification, a few days later, the Central Government acknowledged that since the Form ITR-A is effective from 01.11.2022, the successor companies whose re-organization orders are passed between the period from 01.04.2022 to 30.09.2022 would be left with reduced time period to file the said form. To address this genuine hardship, the CBDT extended the time limit available to such successor companies till 31.03.2023.

Notification No 110 of 2022, dated 19.09.2022 & Order under section 119, dated 26.09.2022

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- + **Voluntary application for re-computation of Income:** Surcharge and Cess on income-tax are not allowed expenses, pursuant to a recent amendment to the ITA. It was observed by the CBDT that taxpayers in their returns of income, have claimed such deductions and offered a lower income. To address this issue, the Central Government vide the Finance Act, 2022 provided that such deductions shall be treated as under-reporting of incomes and the penalty proceedings may be initiated accordingly.

However, it also provides an opportunity for the taxpayer to voluntarily apply to the assessing officer for re-computing the total income by disallowing this expense claim. In such a case, the claims shall not be treated as under-reporting of incomes. Consequently, penalty proceedings shall not apply.

The CBDT has now notified Rule 32 along with Form 69 and Form 70 specifying the procedures and forms to be filed by the taxpayer to apply for the re-computation of income.

Notification No.111 of 2022, dated 28.09.2022

- + **Additional guidelines for removal of difficulties in implementation of Provisions of section 194R:** The Finance Act, 2022 introduced a new compliance effective 01.07.2022 requiring Tax Deduction at Source ('TDS') on a benefit or perquisite that is provided to a resident arising from his business or profession. In this regard, the CBDT had issued certain clarificatory guidelines vide circular 12 of 2022 dated 16.06.2022. Further, certain representations were received by the CBDT requesting for more clarifications. The CBDT, vide this circular, has addressed some of the clarifications requested by the stakeholders. Some of the salient features of the guidelines are as below:

- (i) Settlement / waive-off of loans by certain lenders including Public Financial Institutions, scheduled banks etc. as mentioned in the Circular shall not be subjected to TDS under section 194R.
- (ii) In the course of provision of services, there may be certain expenses that are incurred by the service provider, which are in essence, the expense of the service recipient and the service provider merely acts in the nature of an 'pure agent', per GST law. These reimbursements do not constitute an income in the nature of benefit / perquisite for the service provider. Consequently, reimbursements of such expenses incurred by the service provider on behalf of the service recipient shall not be subjected to TDS provisions. A 'pure agent' is defined in the GST Valuation Rules, 2017.

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- (iii) In certain circumstances, businesses / professions provide benefits to a group as a whole (such as booking of tickets for a conference for a large number of people) and there would be practical difficulties in allocating to each individual, the value of benefit / perquisite provided. In such a scenario, a taxpayer may choose to disallow such expenditure voluntarily in the return of income. If he offers such disallowance in the return of income, he would not be treated as an assessee-in-default (that is a defaulter of TDS provisions).
- (iv) TDS provisions are not applicable in cases where bonus shares and right shares are issued by a company in which public are substantially interested.

Circular No.18 of 2022, dated 13.09.2022

- + **Extension of due date for furnishing audit reports:** Owing to difficulties faced by the taxpayers and other stakeholders in e-filing of various audit reports, the CBDT has extended the due date of furnishing various audit reports which fall on 30.09.2022 to 07.10.2022.

Circular No.19 of 2022, dated 30.09.2022

- + **Revised guidelines for compounding of offences under the Act:** In continuation with the government's efforts to promote ease of doing business, the CBDT has issued revised guidelines for conduct of compounding proceedings in substitution of all the previous guidelines. Some of the salient features of such guidelines are as below:

- (i) Offences involving thwarting of tax recovery by 'removal, concealment, transfer or delivery of property' are now made compoundable if it is committed for the first time.
- (ii) Where compounding application is being submitted against an offence for which a complaint has already been filed in a court of law, such application shall be submitted within 12 months from the date of filing the complaint in the court. Such applications can be submitted till the expiry of 24 months on payment of excess compounding charges to the extent of 1.25 times. Also, in a deserving case, with the prior approval of the Principal Chief Commissioner of Income-tax, such applications can be filed upto 36 months from the date of filing the complaint in such courts with a fee of 1.5 times the normal compounding charges.
- (iii) Penal interest for delayed payment of compounding charges is reduced to:
 - a. 1% per month on the unpaid compounding fees for a delay up to 3 months; and
 - b. 2% per month on the unpaid compounding fees for delays beyond 3 months.

Guidelines for compounding of offences, dated 16.09.2022

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Goods and Services Tax (GST)

+ Legislative changes made vide Finance Act, 2022 - notified from 01st October 2022:

- 1. Additional conditions prescribed for entitlement of ITC:** Additional condition has been introduced for entitlement of input tax credit (in short, 'ITC') wherein in it is provided that ITC can be claimed only if such ITC has not been restricted in the Form GSTR-2B. Following are the conditions on which ITC is eligible:

Existing preliminary conditions	Additional Condition introduced
<ul style="list-style-type: none"> - Possession of tax invoice/debit note/any other documents. - Receipt of Goods / Services. - Taxes on supply has been paid to the Government by the supplier. - Filing of GST Returns (Form GSTR-3B). 	<p>ITC should not be restricted in Form GSTR-2B u/s 38 of the CGST Act, 2017. Restrictions are on supplies from suppliers:</p> <ul style="list-style-type: none"> - who have taken new registration under the GST law for a limited period (period to be prescribed). - who have defaulted in payment of taxes continuously for a prescribed period. - Where output tax payable as per Form GSTR-1 exceeds in output taxes paid in Form GSTR-3B. - who have availed ITC in excess of the limit prescribed (limit to be prescribed) as made available in Form GSTR-2B during a prescribed period. - where output tax is not discharged by the supplier in prescribed manner through Electronic Cash Ledger.

- 2. Availment of ITC on a Self-assessment basis:** The credit of eligible input tax shall be availed by a registered person in his electronic credit ledger on a 'self-assessed basis' in the returns filed by such person. Hitherto, credit of eligible input tax was available to a registered person on a 'provisional basis'.

Further, if the supplier is not paid taxes on which ITC is availed, then the recipient of the supply is required to reverse the ITC along with interest. Such ITC reversed can be re-availed by the recipient only upon payment of taxes by the supplier.

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- 3. Input Tax Credit entitlement and credit note – Extension of due date:** The time limit for claim of ITC relating to a particular financial year has been extended till 30th November of next financial year. Similarly, time limit for declaration of credit notes relating to a particular financial year has been extended till 30th November of next financial year. Thus, ITC on invoices/debit notes relating to a financial year is to be claimed in the Form GSTR-3B of October of the next financial year. Further, issuance and declaration of credit note relating to a financial year is to be undertaken in Form GSTR 1 and in Form GSTR-3B of October of the next financial year. (Hitherto, it was 20th October of next financial year i.e. due date of Form GSTR-3B of September).
- Press release issued by Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs dated 04.11.2022 has clarified that the extended timelines is applicable to compliances for financial year 2021-22.
- 4. Cancellation of GST Registration on account of non-filing of returns:** GST registration may now be cancelled if:
- **Composition Taxpayer:** If he has not furnished the **return for a financial year beyond three months** from the due date of furnishing the said return. *Hitherto, the cancellation was permitted only if returns were not filed for 3 consecutive tax periods.*
 - **Regular Taxpayer:** If he has not furnished his returns for such a **continuous tax period (not yet prescribed)**. *Hitherto, the cancellation was permitted only if returns were not filed for 6 consecutive tax periods.*
- 5. GSTR-1 - Procedural aspects:** Certain procedural aspects in relation to the filing of the details of outward supplies in Form GSTR-1 has been amended as under:
- **Extended time to rectify errors / omission:** Rectification of any errors or omission in the details furnished in Form GSTR-1 pertaining to a particular financial year can now be made latest by the earliest of the following:
 - 30th November of the following FY (*hitherto, it was the date of furnishing return u/s 39 of the CGST Act, 2017 for the month of September of the subsequent FY*); or
 - Date of furnishing of annual return for the relevant financial year.
 - **Sequential filing of GSTR-1 mandatory:** Taxpayer will not be allowed to furnish Form GSTR-1 for a tax period, if the details of Form GSTR-1 for any of the previous tax periods has not been furnished.

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- **Matching provisions have been done away with:** The requirement of acceptance/rejection of invoices furnished and communicated to the recipient, through the GSTN portal, has been done away with. It may be noted that though this was provided for in the GST laws, the said facility was not active on the GSTN portal.
- 6. Furnishing of GST returns:** The provisions relating to furnishing of returns have been amended as follows:
- **Time limit to file Form GSTR-5 reduced:** Non-Resident taxable person are now required to file their return in Form GSTR-5 at the earliest of the following dates:
 - Within 13th of the following month (*hitherto it was 20th of the following month*);
 - or
 - Within 7 days after the last day of the period of registration.
 - **Options for payment of taxes to QRMP taxpayers:** Every Quarterly Return Filing and Monthly Payment of Taxes (QRMP) taxpayer can now opt to pay taxes as under:
 - *Self-assessment basis* - after considering inward and outward supplies, input tax credit availed and such other particulars during the month; OR
 - An amount determined in a specified manner (not yet prescribed).
 - **Sequential filing of returns mandatory:** In order to file Form GSTR-3B for the current tax period, the existing condition of filing of Form GSTR-3B of earlier tax periods shall continue. Additionally, the Form GSTR-1 must also be filed for the earlier and current tax period.
- 7. Refund of Tax – Relevant Date for supplies made to SEZ:** In order to claim a refund w.r.t. supplies made to SEZ units / developer, the registered person is required to file a refund application before the expiry of 2 years from the “*Relevant Date*”. Owing to lack of clarity on the relevant date for refund claims w.r.t. SEZ supplies, suitable amendments have been made to state that the “*Relevant Date*” for supplies made to SEZ units / developer would be the “*due date for furnishing of return under section 39 in respect of such supplies*”.

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8. Restriction/conditions for usage of Electronic Credit Ledger: The Government has been empowered to specify the maximum proportion of output tax liability which may be discharged by way of utilising the balance lying in the electronic credit ledger for a specific class of registered persons.

As a result, Rule 86B of CGST Rules, 2017, which provides a maximum threshold limit of the utilisation of input tax credit lying in the electronic credit ledger to the extent of 99% of total output tax liability, has now been given legal backing.

9. Late fee – delay in filing of returns by E-commerce operator: Failure to furnish the statement of TCS in Form GSTR-8 within the due date (10th of the following month) will attract a late fee of Rs. 100/- day for the period of default subject to a maximum of Rs. 5,000/-. Hitherto, there was no levy of late fee for delay in filing of the said Form GSTR-8.

Notification No.18/2022–Central Tax, dated 28.09.2022; Press Release, dated 04.10.2022

+ Guidelines for the launching of prosecution: The CBIC has issued detailed guidelines for the institution of criminal proceedings and prosecution against any person who commits any of the offences specified under Section 132(1) and 132(2) of the CGST Act, 2017 i.e., offences in relation to supplies made without issuance of tax invoice or vice versa, wrongful availment of ITC, non-payment of taxes collected, refund wrongly taken, etc. The detailed instructions covering the methodology and other related proceedings on prosecution can be accessed on this [link](#).

Instruction No. 04/2022-23 [GST – Investigation], dated 01.09.2022

+ Guidelines for filing / revising TRAN-1/TRAN-2: Pursuant to the judgment of the Hon'ble Supreme Court in the case of *Union of India vs. Filco Trade Centre Pvt. Ltd. [SLP(C) No. 32709-32710/2018 dated 22.07.2022]*, the CBIC has issued detailed Guidelines for filing / revising TRAN-1/TRAN-2, to ensure uniformity in implementation of the directions of Hon'ble Supreme Court. In summary:

- A declaration (notified now) may be filed in TRAN – 1 / TRAN – 2, if the same had not been filed earlier or to revise earlier filed TRAN 1 / TRAN 2 duly signed or verified through electronic verification code on the common portal. Facility to download the TRAN 1 / TRAN 2 furnished earlier will be made available on the common portal.
- Any amendments / edits to TRAN 1 / TRAN 2 can only be made before submitting the concerned form. Once “submit” button is clicked, the form gets frozen.

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- The Forms submitted is subjected to necessary verification by the concerned tax officer. Tax officer may ask for additional documents / records / returns in support of the claim. The jurisdictional tax officer will pass an appropriate order thereon on merits after granting appropriate reasonable opportunity of being heard.
- Where TRAN 1 / TRAN 2 is filed earlier and does not require revisions, new TRAN 1 / TRAN 2 need not be filed / revised during the period 1.10.2022 to 30.11.2022.
- Where credit was either wholly or partly been rejected by the proper officer, taxpayer is required to pursue alternatives remedies available as per law and should refrain from revising / filing fresh declarations in FORM GST TRAN 1 / TRAN 2.

The detailed guidelines may be accessed on this [link](#).

Circular No.180/12/2022-GST, dated 09.09.2022

Foreign Trade Policy (FTP)

- + **Extension of validity of existing Hand Book of Procedures:** The DGFT has extended the validity of existing Handbook of Procedures 2015-20 until 31st March 2023.

Public notice no.26/2015-20, dated 29.09.2022

- + **Extension of time limit for filing annual returns for FY 2022-23 under EPCG scheme:** The DGFT has extended the last date of filing of annual returns under Export Promotion Capital Goods (EPCG) Scheme for financial year 2022-23 until 31.12.2022. *Hitherto, the deadline for filing the said returns was 30.09.2022.*

Public notice no.27/2015-20, dated 29.09.2022

Corporate Law

- + **Amendment to definition of Small Company under section 2(85) of the Company:** Ministry of Corporate Affairs (MCA) vide its notification dated 15.09.2022 has amended the Companies (Specification of Definition Details) Rules, 2014. As per the amendment, with immediate effect, the limit for prescribed to determine a small company has been increased for paid-up share capital to Rs. 4 crores (previously Rs. 2 crores) and turnover to Rs. 40 crores (previously Rs. 20 crores).

Notification G.S.R 700(E), dated 15.09.2022

- + **Amendment in the Companies (Corporate Social Responsibility Policy) Rules, 2014:** MCA vide its notification dated 20.09.2022 has amended the Companies (Corporate Social Responsibility Policy) Rules, 2014. The amendments include the following:

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- Companies to mandatorily constitute CSR Committee if there is any unspent amount in CSR in terms of an ongoing project under section 135(6) of the Companies Act and such company should comply with CSR provisions contained in Section 135 (2) to (6) of the Act.
- Earlier, CSR provisions once applicable in any financial year on meeting the threshold requirements of net worth, turnover or net profit, then it remained applicable for three years. CSR provisions was no longer applicable when a company ceased to meet the threshold requirements under 135(1) for three years. In this amendment, this sub-rule 2 under rule 3 of CSR Rules has been omitted. So once CSR provisions become applicable, it will remain applicable.
- Entities established by the company itself or along with any other company or other companies are allowed to be undertaken through registered public trust/ society which is exempted under section 10(23C)(iv), (v), (vi), and (via) or registered under section 12A and 80G of the Income Tax Act, 1961 (earlier only those registered under section 12A and 80G of the IT Act could undertake such activities).
- Expenditure on impact assessment reports is now allowed at 2 percent of total CSR expenditure or Rs. 50 Lakhs, whichever is higher (earlier 5% or 50 lakhs whichever is lower)
- A revised format of Annexure-II for the Annual Report on CSR activities has been prescribed.

Notification G.S.R 715(E), dated 20.09.2022

Customs

- + **Notification of IGCR Rules, 2022:** CBIC identifying the need to include import of goods for specified end use and to make necessary clerical changes to the existing Customs (IGCR) Rules, 2017, has notified Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use), Rules 2022 (IGCR Rules, 2022) and the same will supersede existing Customs (IGCR) Rules, 2017. The changes made under the new set of rules mainly includes:
 - (a) Clarifying the time period of utilization to be time period for compliance and insertion of new provision to extend the said period in cases involving reasons beyond the importer's control.
 - (b) Prescription of procedure for immediate re-credit of Bonds by Jurisdiction Customs Office, without having to wait for filing of monthly statements.

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- (c) Extending the application of Customs (IGCRS) Rules, 2022 to Custom Notifications having reference to Specified End Use.
- (d) Necessary changes to the forms prescribed in the rules, to capture details of goods imported, where intended purpose is export of goods using goods imported.
- (e) Necessary changes to the forms to capture, details of different intended purposes such as manufacturing, import for specified end use, export of goods using goods imported, supply of end use recipient or for provision of output service and other additional details such as Sl. No. of the Notification etc.

Additional Comments:

- The period of extension for utilization of imported goods, cannot exceed beyond 3 months.
- In case of imports meant for specified use and no differential duty is involved, the value of bond shall be the assessable value of goods imported.
- Where goods imported are supplied to an end use recipient (for specified use), the importer shall supply such goods under an invoice or wherever applicable, through an E-way Bill as per provisions of CGST Act, 2017. The description and quantity of goods shall clearly be mentioned by the importer.
- End use may be as specified by Notification issued under Sec. 25(1) or Sec. 11 of Customs Act, 1962.
- Details furnished for immediate re-credit of Bonds in Form IGCR-3A, will be auto-populated in monthly statements to be furnished in Form IGCR-3.

Notification No. 74/2022 – Customs (N.T.), dated 09.09.2022 read with Circular No. 18/2022 – Customs, dated 10.09.2022

- + **Amendments to RoDTEP and RoSTCL Scheme read with Electronic Duty Credit Ledger (Amendment) Regulations, 2022:** With an intent to ease burden on transferee-holder of duty credit scrips, the Board has amended RoDTEP and RoSTCL Schemes. Following are relevant amendments under the schemes to be read with Electronic Duty Credit Ledger (Amendment) Regulations, 2022:
 - Recovery proceedings, towards any amount of duty credit allowed in excess of what the exporter is entitled to or where export proceeds are not realized, will not be initiated against transferee-holder of duty credit scrips. However, recovery proceedings against original exporter who generated such scrips can continue.

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- During pendency of recovery proceedings, w.r.t duty credits allowed in excess of eligibility or where export proceeds are not realized, any unutilized duty credits available with transferee-holder will continue to be available for utilization and cannot be suspended. However, unutilized duty credits available with original exporter, will continue to be suspended till the recovery.

Further, the Board has amended Electronic Duty Credit Ledger Regulation, 2021 to increase validity of e-scrip generated from **one year** to **two years**. Validity of e-scrip will not change on account of transfer of the e-scrip. Hence, validity of two years will always be from date of its generation.

(Notification No. 75/2022 – Customs (N.T.) dated 14.09.2022), (Notification No. 76/2022 – Customs (N.T.), dated 14.09.2022), (Notification No. 79/2022 – Customs (N.T.), dated 15.09.2022) read with (Circular No. 21/2022 – Customs, dated 26.09.2022) and (Circular No. 22/2022 – Customs, dated 26.09.2022)

Foreign Exchange Management Act, 1999 ('FEMA')

- + **Revised rules on Late Submission Fee:** The RBI has revised the existing rules on Late Submission Fee ('LSF') under the FEMA to bring in uniformity in imposition of LSF across functions. Accordingly, the LSF shall be as per the following matrix:

Sr.	Type of reporting delays	LSF amount (INR)
1	Form ODI Part-II/ APR, FCGPR (B), FLA Returns, Form OPI, evidence of investment or any other return which does not capture flows or any other periodical reporting	7,500
2	FC-GPR, FCTRS, Form ESOP, Form LLP(I), Form LLP(II), Form CN, Form DI, Form InVi, Form ODI-Part I, Form ODI-Part III, Form FC, Form ECB, Form ECB-2, Revised Form ECB or any other return which captures flows or returns which capture reporting of non-fund transactions or any other transactional reporting	$[7500+(0.025\%*A*n)]$

Where,

- "n" is the number of years of delay in submission rounded-upwards to the nearest month and expressed up to 2 decimal points.
- "A" is the amount involved in the delayed reporting.

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- LSF amount is per return. However, for any number of Form ECB-2 returns, delayed submission for each LRN will be treated as one instance for the fixed component. Further, 'A' for any ECB-2 return will be the gross inflow or outflow (including interest and other charges), whichever is more.

Circular No. 16, dated 30.09.2022

**SINGHVI
DEV & UNNI LLP**
CHARTERED ACCOUNTANTS
|||||

6th Floor, Trade Centre,
29/4, Race Course Road,
Bengaluru – 560 001

Unit No. 1B, 5th floor,
Kaledonia, Sahar Road,
Off Western Express Highway, Andheri (East),
Mumbai - 400 069

+91 (80) 2226 1371 | www.sduca.com |
info@sduca.com

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