

# NEWSLETTER

# APRIL - 2020

## INCOME TAX BAR ASSOCIATION, RAIPUR

# 2020-'21



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**INCOME TAX BAR ASSOCIATION. RAIPUR**

# President's communiqué



Dear Members,

Normally, this is the time of year when all of us work towards financial year end and prepare for beginning of the new financial year. However, this year is going to be completely different. A nationwide lockdown and the deferment of the statutory and regulatory compliances will ensure March, 2020 will be different and a once in a life time occurrence.

CA B. SUBRAMANYAM

The corona virus pandemic has created a war like situation of complete lock down, curfew and restriction on movement of people and goods. Apart from the tragic human consequences, there is complete standstill of business and economic activity resulting in uncertainty about the future of the global economy. There are also talks about an emergency type of situation with panic amongst citizens. Amongst all the gloomy and negative propaganda on the event we should learn and practice to think positively and act accordingly to overcome fear and negative thoughts that can cause depression, stress and a lot of unhappiness. We need to focus on good things, inculcate positive thoughts, spend time with positive thinking people, learn to enjoy nature, be thankful and gratitude and above all keep faith and hope. Positive thoughts de-stress the mind, help in having a positive outlook and improve mental health, thus leaving a successful and happy life. This is the time to upgrade your skills, work on your illness, meditate, listen to music, talk to long last friends and cousins. Learn to live and help others too.

India is grappling with the concept of 'work from home', a work culture that is not yet very popular and accepted particularly with the small and medium enterprises. WFH is changing the way we live and the way we work. Many of us proactively worked on technologies like cloud computing, remote access, VPN, network security, data backup and recovery and other such collaborative tools to prepare for WFH. If used wisely and appropriately, WFH has the potential of building a smart and effective remote work force for business and our profession. This could lead to substantial reduction in overhead cost, increased productivity, boost employee morale and efficiencies, thus resulting in better customer satisfaction and thus profitability. Despite the challenges, one thing seems certain, that the time for WFH has come and more and more people would like to experiment with it.

The unique aspect of the world's battle against the Covid-19 outbreak is that the first line of defence it has catastrophic economic consequences. The great lockdown, as IMF refers to it, is expected to lead to the worst global recession in nine decades-since the Great depression of 1929-and a cumulative loss of around \$9 trillion to global output over two years. This is more than the combined output of Germany and Japan. India has enforced possibly the tightest lockdown in the world to flatten the epidemic's curve. The economic consequences will be proportionate. To restart the economy, therefore, a business as usual approach is doomed to fail. Something bigger is needed.

Taking cognisance of the impact of the lock down, RBI unveiled its economic revival packages to meet the challenges of this crisis. It's designed to allow percolation of liquidity support to second tier firms, remove the uncertainty holding back bank lending in the wake of economic standstill, and ease the resource pressure of state governments. If this package works according to plan, it will partially neutralise the uncertainty which chokes financial intermediation in the midst of crises.

# President's communiqué

On their own, however, monetary tools are inadequate to meet the challenge. RBI's measures have to be supplemented by a big fiscal package. The first set of fiscal stabilisation measures after the lockdown aimed to mitigate the impact on the most vulnerable sections of the population. Therefore, the emphasis was on using the PDS to transfer food grain and supplement it with cash transfers. By itself, it was an important move to alleviate hardship. However, since then the lockdown has been extended to a span of 40 days. This duration will have multiple second order effects which will severely undermine even perfectly sound businesses.

The combined impact of revenue collapse of firms that triggers salary cuts and layoffs will exacerbate the demand squeeze in the economy. This will send the economy into a tailspin which leave no segment, government revenues included, unscathed. The result could be mass unemployment, desperation and social explosions across the country. Therefore, India now needs a large fiscal package which will complement monetary measures, preserve jobs and prevent bankruptcies.

One measure which can complement RBI's effort is the provision of a government backstop that can prevent revenue collapse morphing into job losses. A backstop of this nature will act as force multiplier to incentivise banks to provided credit support to firms, starting virtuous cycle to counter the vicious cycle of bankruptcies and job losses triggering more of the same. As we have seen in other crises, the confidence induced by backstops rarely requires an actual payout by government. Instead it pays for itself by inducing confidence in the system at a difficult time. In a system-wide shock, only sovereign can provide a backstop.

There need to be other fiscal measure too. Tax extension should be offered to firms which have suffered severe cash flow disruptions on account of the lockdown. The first package announced by government was estimated to be less than 1% of GDP. Given the scale of the economic crisis, the measure of support has to be larger, around 5% of GDP. If carefully designed, the actual use of government resources will be lower than the size of the support. There is no time to lose. RBI's measures must be backed by a large fiscal package to complement it, for full impact.

Friends, every crisis has a challenge and every challenge is an opportunity. Time will tell how India shall convert this challenge to an opportunity and put an example before the world for its administrative as well as technical skills to fight against such unprecedented pandemic and come out of this crisis by reviving its economy and taking it to next level.

Friends, under the circumstances, as you all aware, educational programmes with physical gathering cannot be organized so that, our Bar has started webinars on various burning topics to utilize the lockdown period. The information link about the important programmes being organized by National bodies like ICAI, AIFTP etc is being shared regularly so that members can take benefit of it. In present scenario, there is no boundary limit to attend and participate in various webinars being organised by various organization, members are requested to take advantage of those webinars to enrich their knowledge.

Looking forward to continued support & guidance from all the members. Stay at Home and be safe!

Yours Sincerely

CA. B. Subramanyam

President, IT BAR, RAIPUR



The unprecedented crisis due to COVID-19 in the whole world, all the economic activities are closed due to lockdown in the entire country. There is urgent need for a stimulation package to restart the economic activities which are under active consideration of the government.

*I have summarized some of the issues with suggestions related to Direct Tax, which need an immediate attention of the government.*

CA O.P Singhania

(1)

**(2) The Government has already extended the last date for filing income tax returns for Financial Year 2018-19 from 31 March 2020 to 30 June 2020.**

**Suggestions** – In view of the extended lockdown in the Country, it is suggested to further extend the timelines from 30 June 2020 to 30 September 2020.

**(3) For delayed payments of advanced tax, self-assessment tax, regular tax, tax deduction at source, tax collection at source, equalization levy, STT, CTT made between 20 March 2020 and 30 June 2020, the Government has already announced the following:**

- **Reduction of interest rate to 9% from 12% and 18% per annum; and**
- **Late fee/ penalty has been waived off.**

**Suggestions** - It has been observed that many industries are facing difficulties in making the payment of taxes as well within this lockdown. Hence, it is suggested to waive off the entire interest burden for all the taxpayers for the period beginning 20 March 2020 till last date of lockdown, who pays the due taxes within 3 months from the end of the last date on which complete lockdown is over.

**(4) There has been an extension of the due dates under the Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, Securities Transaction Tax (STT) law, Commodities Transaction Tax (CTT) Law, Equalization Levy law. The time limit expiring between 20 March 2020 to 29 June 2020 has been changed to 30 June 2020.**

**Suggestions** – In view of the extended lockdown in the Country, it is suggested to further extend the timelines from 30 June 2020 to 31 March 2021.

**(5) The deadline of Direct Tax Amnesty Scheme (Vivad se Vishwas) has been extended from 31 March 2020 to 30 June 2020 at no additional 10% amount, which otherwise was required to be paid if disputed tax was paid after 31 March 2020.**

**Suggestions** – In view of the extended lockdown in the Country, it is suggested to further extend the timelines from 30 June 2020 to 31 March 2021 with no additional tax 10% tax payment.

In order to further augment revenue in this hour of crisis, Government may explore giving further concessions to all the taxpayers to settle the dispute by paying 50% taxes instead of 100% taxes (with complete waiver of interest, penalty and prosecution) and in case of departmental appeal 25% instead of 50% of tax, if payment is made under VSV Scheme within 31 March 2021.

**(6) “Equalization Levy”, also known as “Google Tax”, was introduced by the Finance Act, 2016 on certain non-resident businesses on certain “specified services”, largely those providing advertisement space and services. The revenues are taxed at 6% on gross basis. Finance Act, 2020 has expanded the scope of the “equalization levy” to include consideration received by e-commerce operators from e-commerce supply or services, and taxed at a rate of 2%.**

**Suggestions** - The Corona economy is largely a digital/ online/ e-commerce economy. The consumption of online services, especially web streaming services such as Netflix, Amazon Prime, Zoom, etc. and the increased dependence on online commerce has made this sector flourish during the lockdown period. The increased business of these e-commerce/ online streaming/ web services companies provides an opportunity to the Government to increase the said tax rates by 1% i.e. from 6% to 7% for ad services, and from 2% to 3% for e-commerce operators.

Going by the growth of business of the sector, the said increase in rate is likely to contribute a good amount of increased revenue. Moreover, since the levy is not part of the Income Tax Act, it would not be subject to the provision of India’s income tax treaties.

**(7) The Government needs to support micro, small and medium enterprises (‘MSME’s) in retaining employees during this hour of crisis.**

**Suggestions** – Government may explore lowering income tax rates for this segment. But the same may also create a disincentive for accurate reporting of income or turnover. Hence, Government should explore the possibility of supporting this segment on the basis of already identified MSMEs through some form of tax support.

**(8) Healthcare is in the primary focus as of now in this hour of crisis.**

**Suggestions** - From income tax perspective, a complete tax holiday / tax break may be proposed for the next 2-3 years for all corporates, firms and businesses operating in the healthcare sector. The scope can have an exclusive definition, and must incorporate manufacturing of pharmaceuticals, medical grade masks, gloves, gowns, ventilators, testing labs, construction contractors involved in building of hospitals/ primary health centres, etc.

**(9) Tax Payment difficulties is being faced by the taxpayers.**

**Suggestions** - In this crisis time, we should focus more on facilitating the taxpayers, so as to make compliance easy and hassle free. As we all are aware that currently only authorised banks are allowed to accept the direct tax payment and the list of authorised banks include Public Sector Banks and few Private Sector Banks, which includes Axis Bank, ICICI Bank, IDBI Bank and HDFC Bank. Due to lockdown, Banks are not working with their full strength and tax payment through digital modes is only allowed for few Banks. To facilitate the seamless and timely tax payment, other banks which have Pan-India presence can be included in the list of the authorised banks to accept tax payment. Also loan facility can be provided by the banks to the taxpayers which can be used for the payment of taxes.

**(10) Applicability of proviso to Section 254 of the Income Tax Act.**

**Suggestions** – Mandatory requirement for payment of 20% of demand for stay before ITAT has been introduced in the Finance Act 2020. It provides that the assessee shall be required to deposit 20% of the demand or furnish security of equal amount in respect of such demand. This provision can be abolished/deferred which will assist the tax payers involved in litigation to focus on their core business at the same time avoid large sum being stuck in litigation.

**(11) Clarifications regarding determination of Place of Effective Management (POEM) of Companies.**

**Suggestions** - The Government should issue a clarification stating that there would be no impact on the determination of POEM of Companies under the domestic law during specified COVID period on account of Board meetings taking place through video conferences and extended stays of employees in India due to travel restrictions.

**(12) Claim of Additional Depreciation.**

**Suggestions** - Additional Depreciation should be allowed on machinery, equipments, other related items bought for manufacturing PPEs, Ventilators, masks, gloves etc. to support the activities to meet the increased demand in the COVID management.

**(13) Deduction under section 35AD of Income Tax Act, 1961**

**Suggestions** - Currently losses under section 35AD are not allowed to be set off from profits of any other business except specified business under section 35AD. This deduction under the current year for the hospital business can be allowed to be set off from other businesses. Similarly, Manufacturing of PPE, ventilators and face masks can be notified as a specified business under section 35AD to allow deduction for all the capital expenditure done in course of setting up a new business.

**(14) Business support for Work from Home (WFH) practices**

**Suggestions** - Many taxpayers has shifted to WFH practices during the lockdown. To promote such practices in future too, as these come with benefits such as decongesting roads, potentially increase female workforce participation and so on, only direct expenses incurred by companies in enabling WFH for its employees can be allowed as an eligible business expense and weighted deduction of 125%-150% can be considered. This could include steps like development of Virtual Private Networks, data storages etc.

**(15) Businesses engaged in aviation (passengers), hotels, automobile, and real estate sectors.**

**Suggestions** - TDS deduction for payment to businesses engaged in the aforementioned sectors may be waived off or be allowed at nominal rates to support the liquidity position of businesses. One can also undertake an upward revision of the monetary threshold for TDS deduction.

**(16) Focus on Real Estate sector**

**Suggestions** - Time limit for construction of affordable housing project to get tax relief under section 80-IBA should be extended from 5 years to 6-8 years considering the downturn in the economic activity. Further, the requirements in terms of area of plot and the size and stamp duty value of residential units to allow the project to qualify for tax relief under the said section may be relaxed to benefit more projects than what was originally envisaged.

**(17) Business Losses for Financial Year 2020-21**

**Suggestions** - Losses for the financial year 2020-21 can be made a separate category and given same treatment with respect to set off and carry forward as unabsorbed depreciation without any restrictions on 8 years threshold for set off.

**(18) Salaries payment and deduction under section 37(1)**

**Suggestions** - It can be made weighted average of 125-150% for the period of lockdown or any other prescribed COVID period. This will incentivize employers to not layoff workers/employees. Further, conditions of timely payment of salaries (within 7 days of following month) etc. and threshold salary of Rs 50,000 per month may be prescribed so that relief is not provided in general but it caters to specific lower sections of the society.

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## **Corona, lock down and economy along with the compulsion and strength of the Indian people & Government**

**Corona ! An epidemic!** Who thought a few months before today that life would become something like this, everything would stop and we would all be living life under a bond, maybe no one else can think like this, yes it is definitely In some part of the world, this disease has started 6 months ago, and until this attack no one can think that it can happen in my country. Even in public, the thought remains that till today it cannot happen to me or my family members and are not following the lock down.



CA YOGESH PUROHIT

### **Lock Down and Economy**

The economy of any country depends on the demand and supply, and the balance and imbalance of both of these keeps the economy going in increasing and decreasing order. Manufacturing, distribution and reaching the end consumer and its consumption, all these are stalled today and consumption has also reduced considerably, consumption in India has decreased for a long time due to which the economy shows its decreasing order for the last three years and collapsed today;

**Manufacturing Stalled !**

**Construction Stalled !**

**Distribution Channel Stalled !**

**Consumption reduced a lot ! (Excluding consumption of essential commodities)**

Now this sequence is definitely completely broken, the wheel of economy has stopped completely, which not even have satisfying speed before. The main thing in the wheel of market economy is Food, cloth and house; these basic things have been the main need since the beginning of human beings and still are today. And on this basis, iron, cement, minerals, food items, clothes, and vehicles, house, Mobiles, TV , Internet which are added to the most essential item after food, cloth and house. Policies of the government and Bank works as fuel to drive economy wheels, the policies of the bank and the government make the money reach from the public and business to the government and again to the public under different policies.

As it is well known that most of the population of India lives in the village and agriculture has been the main task of India though which was not given much attention from government. Yes, we have always weakened them by giving them free loans, loan waivers, not only financially but also mentally. The mentality of the farmer has become that they will probably have to remain poor. Rather, by not allowing any government to enable them to become competent ie a proper manufacturing method, distribution method for the farmers and the subsistence system of the consumer, etc., on the contrary, they were always given a loan waiver and strengthened the middlemen.

You, as a common man, can try to understand how the income from the daily sale of the shops around you has reduced, we think that the grocery shops are earning but also their own daily are able to sell less than their previous sales.

It is better to know about the daily earners and eaters that they do not have any capital, which they spend in this unwarranted bad time and spread their life is dependent only on the government, some good people.

It has to be believed that the Manufacturing, distribution system, transportation, consumption, these four wheels is stalled and there is no such system yet. Already banks, vehicle sales, steel and cement sales had put the country's economy on a ventilator and now there is a shortage of oxygen (complete lock down) ie now the life of the economy is in God's faith or rather on a better vision plan. Due to this lock down they will not be able to handle the life of the economy for very long time. These are the moments of life and death for the economy.

### **Compulsion of the general public -**

They have no work, unemployment; no means of continuous earning, markets are inactive and uncertain for the future is in the mind ie negativity has come.

**Government's Compulsion** - lack of a single visionary scheme, collection of GST tax is not as per expectation, no plan to speed up the stalled economy, no strong economic circle of banks, use of safe funds from RBI frequently. Only businessmen are concern about the future economy whereas it is very clear that there is a delayed acceptance of the government, yes! The economy has weakened.

### **Public's strength -**

The Indian general public knows how to get their work satisfactorily done in less money. They quickly adapt standard of living as per their basic requirements. People also have great faith on today's Prime Minister.

**Government's Strength** - A strong absolute majority government whose image is very different from the previous governments and the public is also hopeful. The government has a prime minister whose voice a common man listens and agrees. The government has more than four years to go for the economy, which can continue its long-term economy plan.

Work on some far-reaching plan from the time of today's lock-down till the time of opening of the lock-down completely. For this, a team of scholar economists and former finance ministers of the country should be planned effectively on this. This is the problem of the country and not of one government of one political party.

### **After the lock down is opened -**

- ✓ Instant Cash Required in the Market.
- ✓ The government shall have to immediately loosen the restrictions imposed on cash transactions for a few years so that the lack of cash liquidity in the market is met.
- ✓ GST rates will have to be reduced, the maximum rate should be up to 12 percent, and this step will also bring instant brightness in the market.
- ✓ Banks shall have to reduce their lending time in present this time is still too much.

- ✓ Appropriate steps have to be taken to increase vehicle sales.
- ✓ Availability of housing loan at 7 percent interest.
- ✓ Construction of roads, bridges, Public Utility Building etc. should be done on a war footing in the country.
- ✓ Provide some special exemption in income tax or GST or in both to the employer providing employment in our own country.
- ✓ Allow transaction in cash up to a limit in purchase and sale of small land or house.

The government should do all the work so that cash comes in the market immediately.

The Indian economy will be strengthened only when the money reaches the village and when it arrives in the city, overall the shopping capacity of the person of the village will increase only then consumption will increase, there is no manufacturing problem in India, market is not being made according to manufacturing capacity of India or so. According to the increasing manufacturing, consumption is not increasing because the people do not have money in their hands because of this their purchasing capacity is not increasing. Identification of a strong economy depends on the ability of each person to buy and consume the product.

Therefore, the government will have to work on the purchasing power of the general public; as a result, the wheel of the economy will spin fast automatically.

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## **Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020**

1. (1) This Ordinance shall come into force at once.

### **Definitions.**

2. In this Ordinance, unless the context otherwise requires, -

(a) “specified Act” means-

(i) the Wealth-tax Act, 1957;

(ii) the Income-tax Act, 1961;

(iii) the Prohibition of Benami Property Transactions Act, 1988;

(iv) Chapter VII of the Finance (No. 2) Act, 2004;

(v) Chapter VII of the Finance Act, 2013;

(vi) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;

(vii) Chapter VIII of the Finance Act, 2016; or

(viii) the Direct Tax Vivad se Vishwas Act, 2020;



CA VINAY SHARMA

### **Relaxation of certain provisions of specified Act.**

3. (1) Where, anytime limit has been specified in, or prescribed or notified under, the specified Act which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify in this behalf, for the completion or compliance of such action as-

(a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the specified Act; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the specified Act; or

(c) in case where the specified Act is the Income-tax Act, 1961,-

(i) making of investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purposes of claiming any deduction, exemption or allowance under the provisions contained in-

(I) sections 54 to 54GB or under any provisions of Chapter VI-A under the heading “B.—Deductions in respect of certain payments” thereof; or

(II) such other provisions of that Act, subject to fulfilment of such conditions, as the Central Government may, by notification, specify; or

(ii) beginning of manufacture or production of articles or things or providing any services referred to in section 10AA of that Act, in a case where the letter of approval, required to be issued in accordance with the provisions of the Special . Economic Zones Act, 2005, has been issued on or before the 31st day of March, 2020,

and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action shall, notwithstanding anything contained in the specified Act, stand extended to the 30th day of June, 2020, or such other date after the 30th day of June, 2020, as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions.

Provided further that such action shall not include payment of any amount as is referred to in sub-section (2).

(2) Where any due date has been specified in, or prescribed or notified under, the specified Act for payment of any amount towards tax or levy, by whatever name called, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify in this behalf, and such amount has not been paid within such date, but has been paid on or before the 30th day of June, 2020, or such other date after the 30th day of June, 2020 as the Central Government may, by notification, specify in this behalf, then, notwithstanding anything contained in the specified Act,-

(a) the rate of interest payable, if any, in respect of such amount for the period of delay shall not exceed three-fourth per cent. for every month or part thereof;

(b) no penalty shall be levied and no prosecution shall be sanctioned in respect of such amount for the period of delay.

Explanation. – For the purposes of this sub-section, “the period of delay” means the period between the due date and the date on which the amount has been paid.

### **The Income Tax Act - Amendment of sections 10 and 80G of Act 43 of 1961**

4. In the Income-tax Act, 1961, with effect from the 1st day of April, 2020,-

(i) in section 10, in clause (23C), in sub-clause (i), after the word “Fund”, the words and brackets “or the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” shall be inserted;

(ii) in section 80G, in sub-section (2), in clause (a), in sub-clause (iiia), after the word “Fund”, the words and brackets “or the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” shall be inserted.

### **The Direct Tax Vivad Se Vishwas Act, 2020 - Amendment of section 3 of Act 3 of 2020**

5. In section 3 of the Direct Tax Vivad Se Vishwas Act, 2020, -

(a) in third column, in the heading, for the figures, letters and words “31st day of March, 2020”, the figures, letters and words “30th day of June, 2020” shall be substituted;

(b) in fourth column, in the heading, for the figures, letters and words “1st day of April, 2020”, the figures, letters and words “1st day of July, 2020” shall be substituted.

**Relaxation of time limit under Central Excise Act, 1944, Customs Act, 1962, Customs Tariff Act, 1975 and Finance Act, 1994.**

6. Notwithstanding anything contained in the Central Excise Act, 1944, the Customs Act, 1962 (except sections 30, 30A, 41, 41A, 46 and 47), the Customs Tariff Act, 1975 or Chapter V of the Finance Act, 1994, as it stood prior to its omission vide section 173 of the **Central Goods and Service Tax Act, 2017** with effect from the 1st day of July, 2017, the time limit specified in, or prescribed or notified under, the said Acts which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify, for the completion or compliance of such action as-

(a) completion of any proceeding or issuance of any order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, tribunal, by whatever name called; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return or statement, by whatever name called,

shall, notwithstanding that completion or compliance of such action has not been made within such time, stand extended to the 30th day of June, 2020 or such other date after the 30th day of June, 2020 as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions under clause (a) or clause (b).

**The Finance Act (NO. 2), 2019 - Amendment of section 127 of Act 23 of 2019.**

7. In section 127 of the Finance Act (No.2), 2019, –

(i) in sub-section (1), for the words “within a period of sixty days from the date of receipt of the said declaration”, the words, figures and letters “on or before the 31’ day of May, 2020” shall be substituted;

(ii) in sub-section (2), for the words “within thirty days of the date of receipt of the declaration”, the words, figures and letters “on or before the 1st day of May, 2020” shall be substituted;

(iii) in sub-section (4), for the words “within a period of sixty days from the date of receipt of the declaration”, the words, figures and letters “on or before the 31st day of May, 2020” shall be substituted;

(iv) in sub-section (5), for the words “within a period of thirty days from the date of issue of such statement”, the words, figures and letters “on or before the 30th day of June, 2020” shall be substituted.

**CENTRAL GOODS AND SERVICES TAX ACT, 2017 - Insertion of new section 168A in Act 12 of 2017.**

8. After section 168 of the **Central Goods and Services Tax Act, 2017**, the following section shall be inserted, namely:-

**Power of Government to extend time limit in special circumstances**

**168A.** (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to force majeure.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

**Explanation.**— For the purposes of this section, the expression “force majeure” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.’ .

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**MAJOR INCOME TAX RELAXATIONS IN APRIL 2020:****1. Income Tax Circular No. 10/2020**

It has been decided by the Board that the reporting under clause 30C and clause 44 of the Tax Audit Report with respect to GAAR and GST reporting shall be kept in abeyance till 31st March, 2021 amidst Covid -19.



CA Palak Jain

**2. F. No. 178/7/2020-ITA-I****Donation to PM Cares Fund by employees**

In cases where donation is made to the PM Cares Fund by an employee through his/her employer, the Fund may not be able to issue separate certificate to every such employee in respect of the donation so made, as the contributions made to the Fund are in the form of a consolidated payment. It is hereby, clarified that the deduction in respect of such donations as indicated above will be admissible u/s 80G of the Act on the basis of the Form 16/Certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this regard.

**3. Circular No. 8/2020-Income Tax****Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge by Finance (No.2) Act, 2019-reg.**

The Finance (No.2) Bill, 2019 was tabled in Lok Sabha on 5<sup>th</sup> July, 2019 which was passed by both the houses of Parliament and became Finance (No.2) Act, 2019 (the Act) which received assent of the President on 1st August, 2019. The Act provided for increase in the rate of surcharge as under:

S. No.	Income slab	Surcharge before the Act	Enhanced surcharge as provided by the Act
1	Less than 50 lakh rupees	Nil	Nil
2	50 lakh rupees but less than 1 crore rupees	10%	10%
3	1 crore rupees but less than 2 crore rupees	15%	15%
4	2 crore rupees but less than 5 crore rupees	15%	25%
5	5 crore rupees and above	15%	37%

2. The enhanced rates of surcharge were applicable from the day of April, 2019 for previous year 2019-20 relevant to assessment year 2020-21. Thus, every person as referred to above was required to compute his tax liability after taking into account the enhanced rates of surcharge. Further, TDS/TCS under various provisions of the Income-tax Act is required to be deducted/ collected after taking into account the enhanced rate of surcharge.

3. Assessee shall not be held in default for short deduction of TDS/short collection of TCS in cases where final transaction was done before laying of the Finance (No.2) Bill, 2019 in the Parliament, i.e. 5<sup>th</sup> July, 2019 subject to conditions laid down.

4. Further, if **the deductor/collector has deducted/collected shortfall of tax after 5<sup>th</sup> of July, 2019** from the transaction(s) made subsequently after the said date, interest, if any, for delay in deduction/collection of such tax shall not be levied.

5. The above relaxation does not absolve the deductee/payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax.

#### **4. F. No. 275/25/2020-IT(B)**

##### **Relaxation in submission of Forms 15G and 15H**

To mitigate the hardships of small taxpayers, it has been decided that if a person had submitted valid Forms 15G and 15H to the Banks or other institutions for F.Y. 2019-20, then these Forms would be valid up to 30.06.2020.

#### **5. Circular C1 of 2020**

An employee, having income other than the income under the head “profit and gains of business or profession” and intending to opt for the concessional rate under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 11513AC of the Act. If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act.

Intimation so made to the deductor shall be only for the purposes of TDS. The option at the time of filing of return of income under sub-section (1) of section 139 of the Act could be different from the intimation made by such employee to the employer for that previous year which was not allowed earlier.

#### **6. Circular No. NSDL/TIN/2020/006**

##### **Extension of Quarterly TDS/TCS statement filing dates**

The revised timelines to finish the TDS/TCS statement for quarter four for financial year 2019-20 is till June 30, 2020.

**7. Order under 119 of The Income Tax Act, 1961**

Following clarifications have been issued:

**(i) Issue of validity period of lower/nil deduction/collection certificates of F.Y.2019-10:**

For the purpose of Para 2 (a ) and 2 (b) of the order dated 31.03.2020, the lower/nil deduction/collection certificates will be valid for the particular period for which these were issued for F.Y. 2019-20 and also for further period from 01.04.2020 to 30.06.2020 for F.Y. 2020-21 subject to conditions as mentioned in the order dated 31.03.2020. For example. if a certificate was issued for a period from 01.10.2019 to 15.12.2019, the same shall be valid for F.Y. 2019-20 for the period from 01.10.2019 to 15.12.2019, and for F.Y. 2020-21 the same shall be valid from 01.04.2020 to 30.06.2020 subject to conditions as mentioned in the order dated 31.03.2020.

**(ii) Issue of threshold/transaction limit for lower/nil deduction/collection certificates of F.Y. 2019-20:**

For the purpose of Para 2 (a) and 2 (b) of the order dated 31.03.2020, threshold/transaction limit mentioned in lower/nil deduction /collection certificate issued for F.Y. 2019-20 will be taken fresh for period from 01.04.2020 to 30.06.2020 for F.Y. 2020-21 and the amount of threshold limit will be the same as was assigned for these certificates for F.Y. 2019-20 subject to other conditions mentioned in the order dated 31.03.2010.

**(iii) Issue of approval and communication of lower/nil deduction/collection certificates:**

Official entails or other electronic communication may be used by field authorities of Income Tax Department for internal approval for issue of lower/nil deduction/collection certificates and for communication of the same .

**(iv) Issue of new/different TAN mentioned for lower/nil deduction/collection application for FY 2020-21 or revision of rates mentioned in certificates of FY 2019-20:**

In case the payee or buyer/licensee/lessee taxpayer had a certificate for lower deduction for FY 2019-20 and an application has been made for FY 2020-21 for a new different TAN mentioned in the application the relaxation as provided in Para 2(a) and 2(h) of the order dated 31.03.2020 shall not apply to such cases and they have to apply afresh as per procedure mentioned in annexure of the above mentioned order. Similarly, if the rates of TDS/TCS mentioned in old certificates are higher and the taxpayer wants revision of the rates in view of impact of **Covid-19** outbreak on its business, the relaxation as provided in Para 2(a) and 2(b) of the order dated 31.03.2020 shall not apply to such cases and they will have to follow the procedure mentioned in the annexure of the above mentioned order and apply afresh.

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**115BBE –Whether amendment should be treated as Retrospective or Prospective**

Background- Amendment in provisions of section 115BBE was introduced during the period of demonetisation in parliament which got presidential assent on 15<sup>th</sup> December, 2016 with retrospective date of 1<sup>st</sup> April, 2016. The objective of section 115BBE of the Income Tax Act was to curb the practice of laundering of unaccounted money. Provisions of section 115BBE is invoked when income includes any income in the nature of Section 68/ section 69/ Section 69A/ Section 69B/ Section 69C/ Section 69D. For better understanding, Current provisions of section 115BBE is reproduced below for the ready reference:

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*“115BBE. (1) Where the total income of an appellant,—*

*(a) includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D and reflected in the return of income furnished under section 139; or*

*(b) determined by the Assessing officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a), the income-tax payable shall be the aggregate of—.....”*

*the income-tax payable shall be the aggregate of —*

*(i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of **sixty per cent.**; and*

*(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).*

*(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance[or set off of any loss] shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a)[and clause (b)] of sub-section (1).*

**115BBE- Before amendment?**

Section 115BBE of the act specifically levies tax on such unexplained items deemed as income at the flat rate of 30 percent (Plus surcharge and cess as applicable) irrespective of slab of income. No

deduction is available for any expenditure or allowance while computing such deemed income. Amendment in provisions of section 115BBE was introduced during the period of demonetisation.

### **115BBE- Post- amendment? (Taxation laws second amendment, 2016)**

The amendment was made to remove the benefit of Pre- amended law under section 115BBE of the Income Tax Act, 1961 to convert unexplained money with payment of 30 percent tax plus applicable surcharges only may not be taken during demonitisation

Amendment to section 115BBE by taxation laws second amendment by taxation laws Second amendment Act, 2016 was made to increase the tax rate to 77.25 percent (60% Tax + 25% Surcharge on Tax + 3% cess on tax and Surcharge) from 35.535 percent.

### **What is retrospective amendment?**

Retrospective law is made to affect acts or facts occurring, or rights occurring before it came into force.

### **Is Retrospective taxation- Valid?**

Many times retrospective amendment in the tax laws which was prejudicial to the interest of tax payer and same was challenged before the appellate authorities. Most of the cases favours the taxpayer and treats the retrospective amendment bad-in-law and nullity. For the same tax payer can rely on the following judgments:

- a. The Hon'ble Apex Court in the case of Karimtharuvi Tea Estate Ltd. Vs State of Kerala as reported in [1966] 60 ITR 262 (SC) re-iterated a settled position of law and held as under:  
"10. Now, it is well-settled that the Income-tax Act, as it stands amended on the first day of April of any financial year must apply to the assessments of that year. Any amendments in the Act which come into, force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force."
- b. The Hon'ble Gujarat High Court in the case of Avani Exports Vs CIT as reported in [2012] 23 taxmann.com 62 (Guj.) has held as under:

"Although in taxing statute laxity is permissible and after giving a benefit to the assessee based on some specific conditions, such benefit can definitely be curtailed out, the same must be effective from a future date and not from an earlier point of time. If after inducing a citizen to arrange his business in a manner with a clear stipulation that if the existing statutory conditions are satisfied, in that event, he would get the benefit of taxation and thereafter, the revenue

withdraws such benefit and imposes a new condition which the citizen at that stage is incapable of complying whereas if such promise was not there, the citizen could have arranged his affairs in a different way to get similar or at least some benefit, such amendment must be held to be arbitrary and if not, an ingenious artifice opposed to law. In the instant case, the object of the amendment, as it appears from the statements of the Finance Minister while moving the bill, is to get rid of the alleged wrong decision of the Tribunal interpreting the then provision of the statute in a way beneficial to the assessee, which according to the Finance Minister, was never the intention of the legislature. If such be the position, the revenue has definitely right to challenge the decision of the Tribunal as a wrong one before the higher forum, but on a plea of delay in disposal of appeal if filed, without challenging the decision of the Tribunal before the High Court or the Supreme Court, the revenue cannot curtail such benefits by proposing amendment, incorporating a new provision in the Statute from an anterior date. According to the existing law enacted by the Parliament itself, wrong orders passed by a Tribunal should be challenged by aggrieved party before the appropriate High Court and if such party is aggrieved, by order of the High Court, he should move to the Supreme Court.

- c. The Hon'ble Kerala High Court in the case of CIT Vs S.A. Wahab as reported in [1990] 48 Taxman 362 (Kerala) has held as under:

“6. We are of the opinion that though the subject to the charge is the income of the previous year, the law to be applied is the law that is in force in the assessment year, unless the law is changed. In fact, what has to be looked into is the law of income-tax. The provision of the Act as it stands on the 1st April of a financial year must apply for that year. Further, since the law that has to be applied is the law as it stands on the 1st April of a financial year, any amendments in the Act, which come into force after 1st April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force. This position has been made clear by the Supreme Court in CIT v. Scindia Steam Navigation Co. Ltd. [1961] 42 ITR 589 and in Karimtharuvi Tea Estate Ltd. v. State of Kerala [1966] 60 ITR 262.”

In view of the various judicial pronouncement, the provisions of section 115BBE of the Income Tax Act should not stand amended as on first day of April for the Financial Year 2016-17 but on the date on which it received Presidential assent.

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*Thank  
you!*

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