



March 2017

## IMPORTANT DUE DATES

Sr. No.	Particulars	Due Date
1	Registration of GST	30.04.2017
2	Payment of TDS	30.04.2017
3	Service Return for the 2 <sup>nd</sup> Half (Oct 16-Mar 17)	25.04.2017
4	Payment of Provident Fund	20.04.2017
5	Payment of ESIC, VAT/CST	21.04.2017
6	VAT/CST Return for the Month of March 17 & 4 <sup>TH</sup> Quarter	21.04.2017
7	Payment of Equalization Levy for March 2017	07.04.2017
8	Payment of TCS	07.04.2017



❑ **Sec 54F –Rajesh Kumar Agrawal vs CIT**  
**[2017] 78 taxmann.com 265 (Delhi HC)**

Where assessee set off capital gains on sale of property against capital loss on shares (which is not exempt) and **benefit u/s 54 was not claimed** in original return; exemption u/s 54F was to be granted to rectify such mistake under revisional proceedings u/s 264 even though time limit for **filing revised return had lapsed and set off of loss was not permitted** – Writ petition allowed  
Relied Smt. Sneh Lata Jain v. CIT [2004] 140 Taxman 156 (J&K HC)

❑ **Sec 54F - Shri Puranchand & Family (HUF) vs ITO**  
**[2017] 79 taxmann.com 156 (Chen Trib)**

Where **assessee-HUF** used its capital gain from sale of diamonds to purchase property, even though it was **registered in individual name of Karta**, property would belong to HUF; **HUF would be eligible** for exemption u/s 54F

❑ **Sec 17- ITO Vs. Kuwait Airways Corporation**  
**[2017] 78 taxmann.com 187 (Mum Trib)**

Amount paid to ex-employees under out of court settlement to avoid litigation cannot be regarded as **profit in lieu of salary as per Sec 17(3)(i)** and in absence of employer-employee relationship while payment of amount since the employees were retrenched the said payment is not covered even u/s 17(3)(iii)



❑ **Sec 10(38) - Asara Sales & Investments (P) Ltd vs ITO**  
**[2017] 79 taxmann.com 170 (Pune Trib)**

Tribunal allowed set-off of loss on sale of listed shares of group entity in **off-market transaction** against LTCG on sale of unlisted shares of other group companies wherein STT were not paid on both the transactions



❑ **Sec 2(15) Bhakti Kala Kshetra vs DCIT**  
**[2017] 79 taxman.com 66 (Mum Trib)**

Even if assessee trust was hit by monetary limits contemplated u/s 2(15) w.e.f. 1-4-2009, same would only adversely affect entitlement of assessee towards claim of exemption u/s 11; however, same could not directly lead to cancellation/ withdrawal of registration granted u/s 12A/12AA

❑ **Rajesh Projects (India) (P) Ltd. vs CIT (TDS)**  
**[2017] 78 taxmann.com 263 (Del HC)**

Lease premium for acquisition of lease hold rights are not subject to TDS, being capital in nature




❑ **Sec 2(42A)- Anita D Kanjnai Vs ACIT**  
**[2017] 79 taxman.com 67 (Mum Trib)**

In order to determine nature of asset in terms of section 2(42A), holding period has to be computed from **date of issue of allotment letter** and not from date when **agreement to sell was registered**. The Word “**Held**” has been used by the legislature and not “**owned**” as used in 54/54F. The legislature is **not concerned with absolute legal ownership**.



# International Taxation





❑ **Sec 9 - DIT vs A.P. Moller Maersk A S**  
**[2017] 78 taxmann.com 287 (SC)**

Where assessee, a foreign shipping company, set up a telecommunication system in order to enable its agents across globe including India to perform their role more effectively, payment received for providing said facility was not taxable as fee for technical services

❑ **Sec 9: DDIT vs Nipro Asia Pte Ltd - Profit attribution principle vs Force of attraction principle** [2017] 79 taxmann.com 154 (Del Trib)

- ❖ AO considered % of gross profit attributed to marketing activity in India based on attribution principle
- ❖ The argument of taxpayer that AO has applied force of attraction rule and considered foreign income under tax net is not accepted by Court
- ❖ Deemed profit margin of 10% as prescribed under 44BB is considered as Net margin on sales in India and 30% of it is attributed to Indian Branch . Adoption of base at gross profit level instead of net profit level was rejected by Court

❑ **Sec 144C - DCIT vs India Trimmings (P) Ltd**  
**[2017] 78 taxman.com 270 (Chen Trib.)**

DRP has **no authority to direct** AO or TPO to make further enquiry and decide matter; at best he can call for remand report from AO or TPO and decide issue arising for adjudication by itself

❑ **Sec 92C-Tetra Pak India (P.) Ltd. vs CIT**  
**[2017] 78 taxmann.com 259 (Pune Trib)**

Cost related to replacement of old packing machines supplied to customers with new machines so as to continue sale of packing materials to customers, was to be excluded from operating margin, same being an extraordinary item



❑ **Sec 9(1)(i) – Cairn UK Holdings Ltd Vs DCIT**  
**ITA No. 1669 /Del/2016 (Del Trib.)**

- ❖ The Capital Gain arising on indirect transfer by a foreign Company of shares in another foreign company **holding assets in India** is liable to **tax in India**.
- ❖ The transfer is a **mere re-organisation of assets** within the group and there is no “real income” is not acceptable to Court
- ❖ The Retrospective Amended to Sec 9 by the finance Act 2012 shall be Considered.
- ❖ The DTAA provides that the **income chargeable** shall be chargeable to tax in accordance with **domestic law, hence domestic law has to be the amended law.**

Notifications / Circulars



**Key proposals in Finance Bill, 2017 by Lok Sabha dated 20.03.2017**

**Sec. 2** – Definition of income to be amended to include Sec. 56(2)(x)

**Sec. 94B** – For the purpose of computing threshold limit of 1.00 crores under thin line capitalization the scope is extended from payment to incurrance of expense

**Sec. 269ST** - Threshold limit for cash payments without attracting penalty is reduced to Rs. 2 Lakhs from Rs. 3 Lakhs

**206C** - Obligation on seller to collect TCS on cash transactions for sale of goods or services (including Jewellery) above Rs. 2 lakhs is withdrawn

**Sec. 182 of Companies Act, 2013** – Restriction of contribution for political donations up to 7.5% of its average net profits during 3 immediately preceding FYs is removed

## Key proposals in Finance Bill, 2017 by Lok Sabha dated 20.03.2017

### New Sec. 139AA - Mandatory quoting of Aadhaar Number

- ❖ Every person who is eligible to obtain **Aadhaar Number** is required to **quote** Aadhaar Number **on or after 01.07.2017** in PAN application form and Return of income
- ❖ Person can quote the **Enrollment ID** of Aadhaar application form in case he does not possess the Aadhaar Number
- ❖ Every person who has been allotted PAN **as on 01.07.2017** and who is eligible to obtain Aadhaar number shall intimate his Aadhaar Number to the prescribed authority in notified manner to Central Govt.
- ❖ In case of such failure, PAN allotted shall be deemed to be invalid and it shall also be deemed that the person had not applied for allotment of PAN
- ❖ Certain person(s)/States to be excluded which will be notified by central Govt.

## **CBDT Notification No. G.S.R No 117 (E) dated 09.02.2017**

### **Procedure simplified for online PAN & TAN application for newly incorporated companies**

- ❖ For newly incorporated companies, Certificate of Incorporation will not be available unless an application for allotment of PAN and TAN has been filed in SPICe (INC-32) form using DSC of applicant as specified by MCA
- ❖ MCA will forward the data in Form 49A & 49B to prescribed Income tax authority for allotment of PAN and TAN number
- ❖ PAN number shall be printed on the Certificate of Incorporation and TAN number shall be communicated separately

### **Notifications - FEMA & Corporate Law.**

- ❖ Non-Residents can enter into Foreign exchange derivate contract with Authorized Dealer in India-Notification No.FEMA.384/RB-2017/GSR 260(E) Dated 17-3-2017.
- ❖ RBI issues master direction on direct investment by Residents in Joint Ventures and wholly owned subsidiary abroad.
- ❖ Govt allows 100% FDI in e-commerce sites via automatic Route-Notification No.FEMA. 387/2017-RB/GSR 224(E).
- ❖ SEBI revises regulatory framework of M&A Rules for listed Companies-Circular No.CFD/DIL3/CIR/2017/21.
- ❖ CBEC issues master circular on show cause notice,adjudication and recovery-Circular No 1053/02/2017-CX[F.NO.96/1/2017-CX.1].



## Articles - FEMA & Corporate Law.

- ❖ RBI Liberalizes FDI Conditions for LLPs- [2017] 79 taxmann.com 167 Article.
- ❖ Whether a private company can accept deposits from HUF?-[2017] 79 taxmann.com 3 (Article).
- ❖ RBI notifies scheme for FDI in Limited liability Partnership (LLP).

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Thank you

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