

(Private and Confidential)

POC CONNECT

SEPTEMBER EDITION 2016

This document is prepared to provide general information about the project (mandate held by Punkaj Oswal & Co.) to potential clients to whom it is addressed. This slide deck contains the basic necessary information that any potential client may require. The information provided in this document is meant only for the recipient and is not to be shared by anyone else without prior permission from POC.

© Punkaj Oswal & Co.

Corporate News Round Up

Tax News Round Up

Notifications,
Circulars &
Press Releases

Direct Tax
Case Laws

Indirect Tax
Case Laws

Corporate
Case Laws

Corporate News Round Up

Employees' State Insurance Corporation (ESIC) raises wage threshold to Rs 21,000

ESIC on 06/09/2016 raised the monthly wage threshold to Rs 21,000, from the current Rs 15,000, for coverage under its health insurance scheme.

The ESIC board also decided to give an option to existing insured persons to continue membership even if their wage breaches the ceiling of Rs 21,000 per month.

Both the decisions will be implemented from October 1.

GST becomes Law as President gives assent to constitutional amendment bill

President Pranab Mukherjee on 8th September 2016 gave assent to Constitution Amendment Bill on Goods and Services Tax, a major step towards rolling out the new indirect tax regime which the Modi government wants to come into effect from April 1 next year.

Corporate News Round Up

Enforcement Directorate attaches Vijay Mallya's properties and shares worth Rs 6,630 crores

The Enforcement Directorate (ED) has attached Rs. 6,630 crores worth properties belonging to loans defaulter Vijay Mallya. The properties include a mall, a farmhouse and several stocks Mallya owns. The properties attached by the ED are located around the country, including in Mumbai and Bengaluru. Among the things ED attached include Mallya's farmhouse in Maharashtra worth Rs 200 Crore, an apartment and a mall in Bangalore worth Rs 800 crore and shares of UBL and USL, owned by the businessman, worth Rs 3,000 crore.

Sebi relaxes restrictions on more than 200 entities

Sebi has eased restrictions on more than 200 entities against whom the regulator has taken action in different cases of alleged misuse of stock market platform for tax evasion and suspected money-laundering activities. The entities, which were barred from the securities market in three different cases, have now been allowed certain relaxations, including permission, to deal in government securities and invest in ETF (exchange-traded funds).

For more detail refer-

<http://www.thehindubusinessline.com/economy/policy/sebi-may-take-aadhaar-route-to-tap-buyers-on-ecomm-platforms/article8812252.ece> ©Punkaj Oswal & Co.

Corporate News Round Up

RBI LAUNCHES WEBSITE SACHET TO TACKLE FRAUD

RBI launched a website from which anyone can obtain information regarding entities that are allowed to accept deposits, lodge complaints, and share information regarding illegal acceptance of deposits by unscrupulous entities. Named **SACHET** the website is expected to be helpful in coordination between regulatory authorities and law enforcement agents throughout the states so any unscrupulous money-raising activities can be curbed. Collective investment schemes (CISs) have come under the scanner and the regulators, particularly Securities and Exchange Board of India (Sebi) has cracked down on such activities after millions were duped by Sahara, Sarada, Pearl Agro, and such schemes.

For more detail refer-

http://www.business-standard.com/article/finance/rbi-launches-website-sachet-to-tackle-fraud-116080500030_1.html

Corporate News Round Up

Tax News Round Up

Notifications,
Circulars &
Press Releases

Direct Tax
Case Laws

Indirect Tax
Case Laws

Corporate
Case Laws

Tax News Round Up

Deduction benefit under section 35AC only till March 31, 2017

The benefit of deduction U/S 35AC of the IT Act in respect to the payments made to association or institution approved by the National Committee for carrying-out any eligible project or scheme will only be available till March 31. Requests received after December 31, 2016, for the grant/modification/extension of approval beyond March 31, 2017 under section 35AC shall not be entertained by the National Committee.

Only 14 lakh individuals fell in 30% tax bracket in 2012-13

Only 14 lakh individuals out of the 2.89 crore assesseees in the country declared an annual income of over Rs. 10 lakh, attracting the highest tax bracket of 30 per cent, in assessment year 2012-13 or just 4.6 per cent of the total assesseees paid taxes in the highest 30 per cent tax bracket.

Tax News Round Up

Four million tax arrear cases may get waiver

For the first time ever, the income tax department is thinking of writing off tax arrears in each case where the dues are up to Rs 5,000. The idea is to cut litigation, lower the cost of collection and prioritising of bigger defaulters. Though writing off will mean the government could lose up to Rs 600 crore, many of these accounts are anyway not recoverable. There are four million tax arrear cases of under Rs 5,000, older than three years.

IT department identifies 14 lakh non-PAN transactions; to seek details

IT Department will issue 7 lakh letters seeking information about 14 lakh high-value transactions, which were carried out without quoting PAN No. The transactions, which have been termed high risk, include cash deposits of Rs 10 lakh or more in a savings bank account and sale or purchase of immovable property at Rs 30 lakh or higher.

Tax News Round Up

Over 75 lakh taxpayers availed e-verification facility for filing income tax returns

Over 75 lakh taxpayers availed the e-verification facility of their income tax returns filed till August 5 against around 33 lakh taxpayers last year till September 7, which will ensure faster processing of their returns. In all 226.98 lakh e-returns were filed in FY 2016-17 as compared to 70.97 lakh for the same period in FY 2015-16. The number is higher because last year the date of filing had been extended to September 7.

For more detail refer-

<http://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF/PressReleaseSurgingGroth8-08-2016.pdf>

Corporate News Round Up

Tax News Round Up

Notifications,
Circulars &
Press Releases

Direct Tax
Case Laws

Indirect Tax
Case Laws

Corporate
Case Laws

Notifications, Circulars & Press Releases

DUE DATE OF FILING RETURN AND TAX AUDIT REPORT FOR AY 2016-17 EXTENDED TO 17-10-2016

CBDT vide order u/s 119 dated 9th September, 2016 has extended the 'due date' for filing Return and Tax Audit Return for assessee whose due date for filing Income Tax return is 30th September (being Company, Firms and other required to get accounts audited under Income Tax Act or other law and working partners of such firm) is extended to 17th October 2016.

For more detail refer-

http://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF_News/Extension-of-date-of-filing-return-09-09-2016.pdf

Notifications, Circulars & Press Releases

CBDT MANDATES PAN OF AUTHORS/ FOUNDERS/ TRUSTEES/ MANAGERS IN FORM 10A

CBDT vide notification no. 67/2016 dated 9th August 2016 has amended Income Tax Rules, 1962. The amendments deal with modification in Form 10A and Rule 17A by seeking Permanent Account Number (PAN) details of Trustees and others in case of registration of Trust.

For more detail refer-

<http://www.incometaxindia.gov.in/communications/notification/notification672016.pdf>

Notifications, Circulars & Press Releases

THE INCOME DECLARATION SCHEME (IDS) 2016- REG. FAIR MARKET VALUE OF IMMOVABLE PROPERTY

CBDT vide notification no. 74/2016 dated 17th August 2016 has amended Income Declaration Scheme Rules, 2016. The amendments deal to provide an option to value the immovable property on the basis of the registered value.

Where acquisition of an immovable property is evidenced by a registered deed, an option shall be available with the declarant to declare the fair market value of such property by applying the cost inflation index to stamp duty value of the property.

For more detail refer-

<http://www.incometaxindia.gov.in/communications/notification/notification742016.pdf>

Notifications, Circulars & Press Releases

GOVT DEPTS, EMBASSIES EXEMPT FROM 1% TCS

CBDT vide notification no. 75/2016 dated 19th August 2016 has exempted government departments, embassies, consulates and UN bodies from the levy of 1% tax collection at source (TCS) on cash purchases of above Rs 2 lakh.

The government has introduced 1% TCS on purchase of goods and services in cash exceeding Rs 2 lakh with effect from 1 June, 2016 .

For more detail refer-

<http://www.incometaxindia.gov.in/communications/notification/notification752016.pdf>

Notifications, Circulars & Press Releases

FREIGHT FORWARDERS ACTING AS PRINCIPAL AGENTS TO TRANSPORT GOODS ABROAD NOT LIABLE TO SERVICE TAX

CBEC vide circular no. 197/7/2016 dated 12th August 2016 has clarified the liability of service tax on freight forwarders transporting goods abroad. In the cases where freight forwarder undertakes all the legal responsibilities for the transportation of the goods and undertakes all the attendant risks, providing the service of transportation of goods from a place in India to a place outside India and bearing all the risks and liabilities for transportation, they are not covered under the category of intermediary, which by definition excludes a person who provides a service on his own account.

Therefore, a freight forwarder, when acting as a principal, will not be liable to pay service tax when the destination of goods is from a place in India to a outside India.

For more detail refer-

<http://www.cbec.gov.in/resources//htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-197-2016.pdf>

Corporate News Round Up

Tax News Round Up

Notifications,
Circulars &
Press Releases

Direct Tax
Case Laws

Indirect Tax
Case Laws

Corporate
Case Laws

Rayala Corporation (P.) Ltd. v. Assistant Commissioner of Income-tax
[2016] 72 taxmann.com 149 (SC), Dated- AUGUST 11, 2016

Where assessee company was having house property and its business was to lease out its property and to earn rent, income so earned as rent should be treated as 'business income', and not as 'income from house property'

Issue:

- The appellant-assessee, a private limited company, is having house property, which has been rented and the assessee is receiving income from the said property by way of rent.
- The main issue in all these appeals is whether the income so received should be taxed under the head "Income from House Property" or "Profit and gains of business or profession".

Held that:

- The High court was not correct while deciding that the income of the assessee should be treated as Income from House Property.
- We, therefore, set aside the impugned judgments and allow these appeals with no order as to costs. We direct that the income of the assessee shall be subject to tax under the head "Profits and gains of business or profession".

For more detail refer-

<http://judis.nic.in/supremecourt/imgst.aspx?filename=43872>

Suresh Kumar D. Shah v. Deputy Commissioner of Income-tax, Central Circle-2, Hyderabad
[2016] 73 taxmann.com 26 (Hyderabad - Trib.), Dated- AUGUST 10, 2016

Where under development agreement, land was to be handed over to developer, but, in fact, physical possession was continuously enjoyed by assessee and by virtue of Arbitral Tribunal's decree, said agreement was cancelled in later year, it could not be said that any transfer took place with regard to land

Issue:

- The assessee land owner entered into development agreement with a developer.
- According to the Assessing Officer the owners have handed over the entire possession of the said property in part performance of the development agreement-cum-GPA charged capital gains. Though the agreement was cancelled in 2014 by the Arbitral Tribunal as a result of dispute, he held that cancellation of agreement in a later year did not alter the situation.
- The Commissioner (Appeals) upheld, the action of the Assessing Officer and rejected the claim of the assessee that the development agreement was cancelled.

ITAT Held that:

No transfer took place with regard to land which was scheduled for development as physical possession was continuously enjoyed by assessee and his family members and, thus, even under Income-tax Act transfer could not be said to have taken place in year under consideration - Held, yes [Para 8] [In favour of assessee]

Mumbai Railway Vikas Corpn. Ltd. v. Director of Income-tax (Exemption)

[2016] 72 taxmann.com 212 (Mumbai - Trib.), Dated- AUGUST 3, 2016

Where revenue, invoking provisions of section 12AA(3), cancelled registration of assessee for reasons that (i) income of assessee was not eligible for benefit of section 11/12, and (ii) some of clauses in Memorandum and Articles of Association allowed assessee to do business, these reasons were not relevant for cancellation of registration envisaged in section 12AA(3)

Issue:

- The assessee-company, a 'Project Implementing Agency' for the Railway component of the Mumbai Urban Transport Project (MUTP).
- Revenue, invoking provisions of section 12AA(3), cancelled registration of assessee for reasons that (i) major income being earned by assessee was on account of interest and miscellaneous receipts and, therefore, it was only leveraging its funds to earn interest income and such income could not be said to be used for charitable purposes so as to be entitled for exemption under section 11/12, and (ii) some of clauses in Memorandum and Articles of Association allowed assessee to do business and, therefore, it was hit by amended proviso to section 2(15)

ITAT Held that:

- Registration once granted under section 12A can be cancelled/withdrawn under section 12AA(3) only if one or both of conditions contained therein are fulfilled, namely, activities of trust/institution are not genuine or same are not being carried out in accordance with its objects.
- These reasons were not relevant for cancellation of registration envisaged in section 12AA(3).

Corporate News Round Up

Tax News Round Up

Notifications,
Circulars &
Press Releases

Direct Tax
Case Laws

**Indirect Tax
Case Laws**

Corporate
Case Laws

Mere payment of VAT does not mean that service tax, if otherwise payable, cannot be recovered; hence, even if VAT is already paid, service tax demand cannot be said to be without jurisdiction so as to be set aside in writ jurisdiction.

Facts:

- Assessee filed writ against service tax demand on lease charges. Department argued that assessee should file appeal before CESTAT.
- Assessee argued that it had already paid VAT on lease charges and hence, Service Tax Department does not have jurisdiction to levy service tax and since issue involves interpretation of Constitution, therefore, writ is maintainable.

High Court held that:

- Alternative remedy may be ignored only if : (a) remedy is not efficacious/speedy, or (b) authority has not acted as per provisions of enactment and principles of judicial procedure, or (c) repealed provisions have been invoked, or (d) order has been passed in violation of principles of natural justice.
- Mere fact that assessee has an arguable case cannot be a ground to ignore statutory appellate remedy . Even if assessee argues that VAT is leviable and not service tax, service tax authorities may examine and entertain such a contention and action of authorities cannot be said to be wholly without jurisdiction.
- Mere payment of VAT does not mean that service tax, if otherwise payable, cannot be recovered. Hence, issues were left open to be considered in statutory appeal [Paras 5 to 9] [In favour of revenue]

Corporate News Round Up

Tax News Round Up

Notifications,
Circulars &
Press Releases

Direct Tax
Case Laws

Indirect Tax
Case Laws

Corporate
Case Laws

Official Liquidator of Lath Steels (P) Ltd. v. Pawan Kumar Lath & Bimal Kumar Lath
[2016] 72 taxmann.com 59 (Rajasthan), Dated- JULY 8, 2016

Where OL failed to provide evidence to show that respondent ex-directors had retained current assets of company in liquidation, no case of misfeasance, malfeasance or breach of trust was made out against respondent and, therefore, application under section 543 filed by OL was to be dismissed.

Facts:

- Company-in-liquidation was ordered to be wound up.
- Official liquidator on basis of report of Chartered Accountant filed application under section 543 alleging that respondents, both promoter directors, were liable for misfeasance, wrongful retention of money and property of company-in-liquidation, and breach of trust under section 543 and, therefore, direction be issued that amount retained by respondents should be recovered from them along with interest.

High Court held that:

- Since registered office of company-in-liquidation was taken over by RIICO without notice under section 29 of State Financial Corporation Act, 1951 and books of account of company were at registered office, respondents could not be held guilty of not handing over possession of record/books of account to OL on passing of order of winding up.
- Since OL failed to provide evidence to show that respondents had retained current assets of company, no case of misfeasance, malfeasance or breach of trust was made out against respondents Ex-Directors of company-in-liquidation and, therefore, application under section 543 filed by OL was to be dismissed.



Thank You

Contact us

For further details please contact:

Punkaj Jain - +91 9810286606
Gaurav Gupta - +91 9811393764

Punkaj Oswal & Company

7A LGF, NRI Complex, Mandakini Greater Kailash - IV, New Delhi - 110 019.

Tel: 91-11-26277030; 41631242 **Fax:** 011 - 26272011