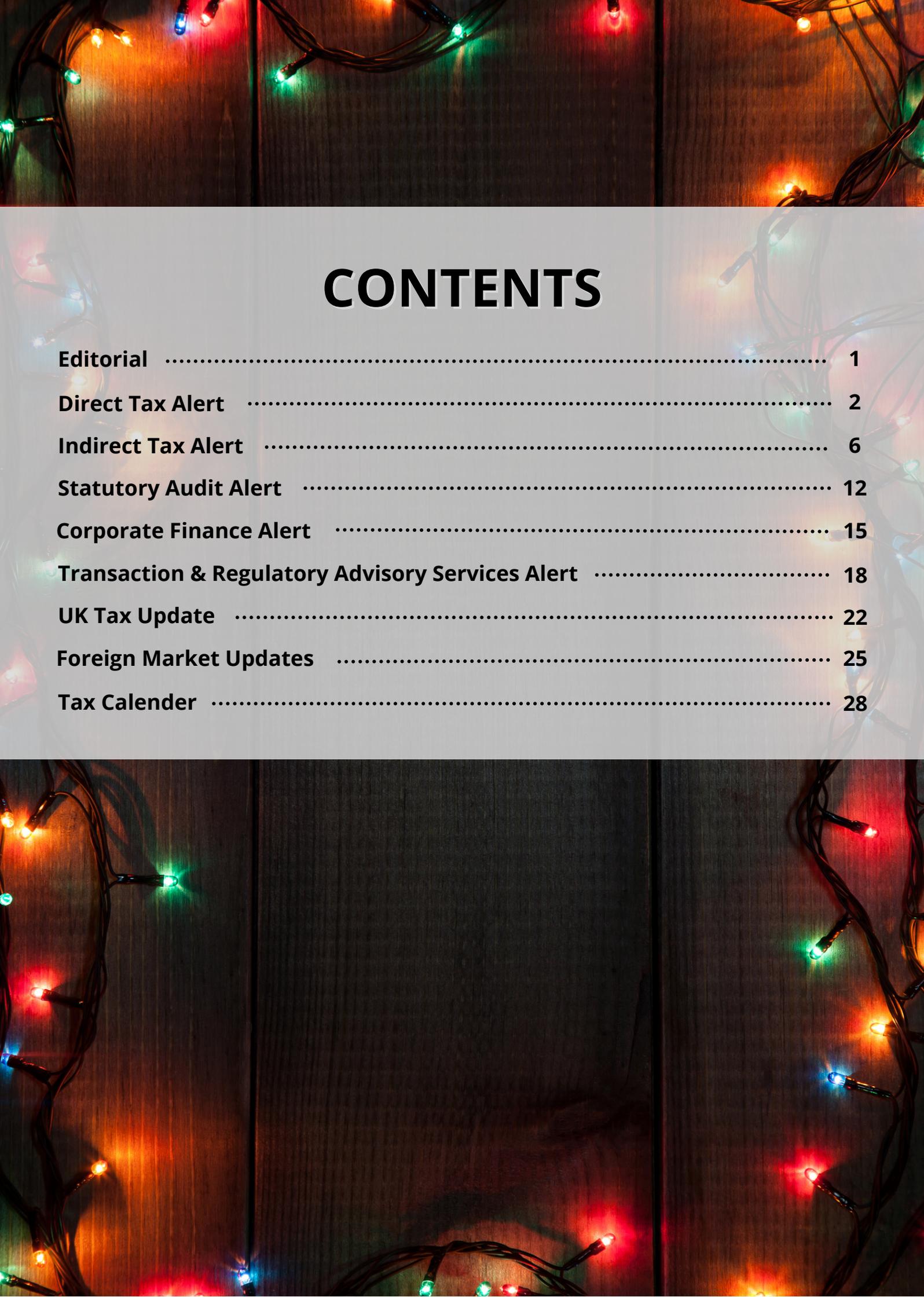




RNM ALERT
NOVEMBER
NEWSLETTER

VOL NO 178



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EDITORIAL

Dear Readers

During the month of November 2023, RNM India celebrated Diwali with much fervour with a rangoli competition across our various offices. A traditional pooja to Goddess Laxmi was conducted by the Pandit Ji at our head office as we do each year. RNM India also held its annual dinner at Chido Restaurant, Connaught Place. It was an evening for the team to strengthen bonds by not only sharing a meal together but also demonstrating their high energy on the dance floor. It helped dispel the incorrect notion that Accountants are not 'fun'. It was a time for young professionals, many of whom appeared in their CA exams during the month, to enjoy with laughter in the company of their colleagues and seniors. I am sure you would have enjoyed on social media a lot of the posts for the Annual Dinner.

During the month, Mr. Alok Kumar, Partner Internal Audit and Mr. Ajit Kumar, Head of Dept Transaction Advisory published an article on 'the importance of internal audit and secretarial standards in India' in the GGI FYI ARC News Journal for Autumn 2023. Mr. Ashu Malhotra, Chief HR Officer participated in the panel discussion at the Purple Bharat Utsav on World Disability Day on Inclusive Employment.

On the Transaction Advisory front, the MCA has notified new Rules with respect to Dematerialization of Securities for Private Companies in India giving adequate time till 30 September 2024 to become compliant. This will make the issue of new securities, transfer of securities and buyback of securities no longer possible after the said 30 September 2024 deadline in physical form.

On the Indirect tax front, the Finance Ministry is aiming to roll out pre-filled GST return forms before April 2024 to resolve the issue of data mismatches leading to tax notices and litigation.

On the Assurance front, the ICAI has issued draft Accounting Standards for Limited Liability Partnerships (LLPs) which are increasingly becoming popular as a vehicle in place of Companies. This should usher in better governance at LLPs.

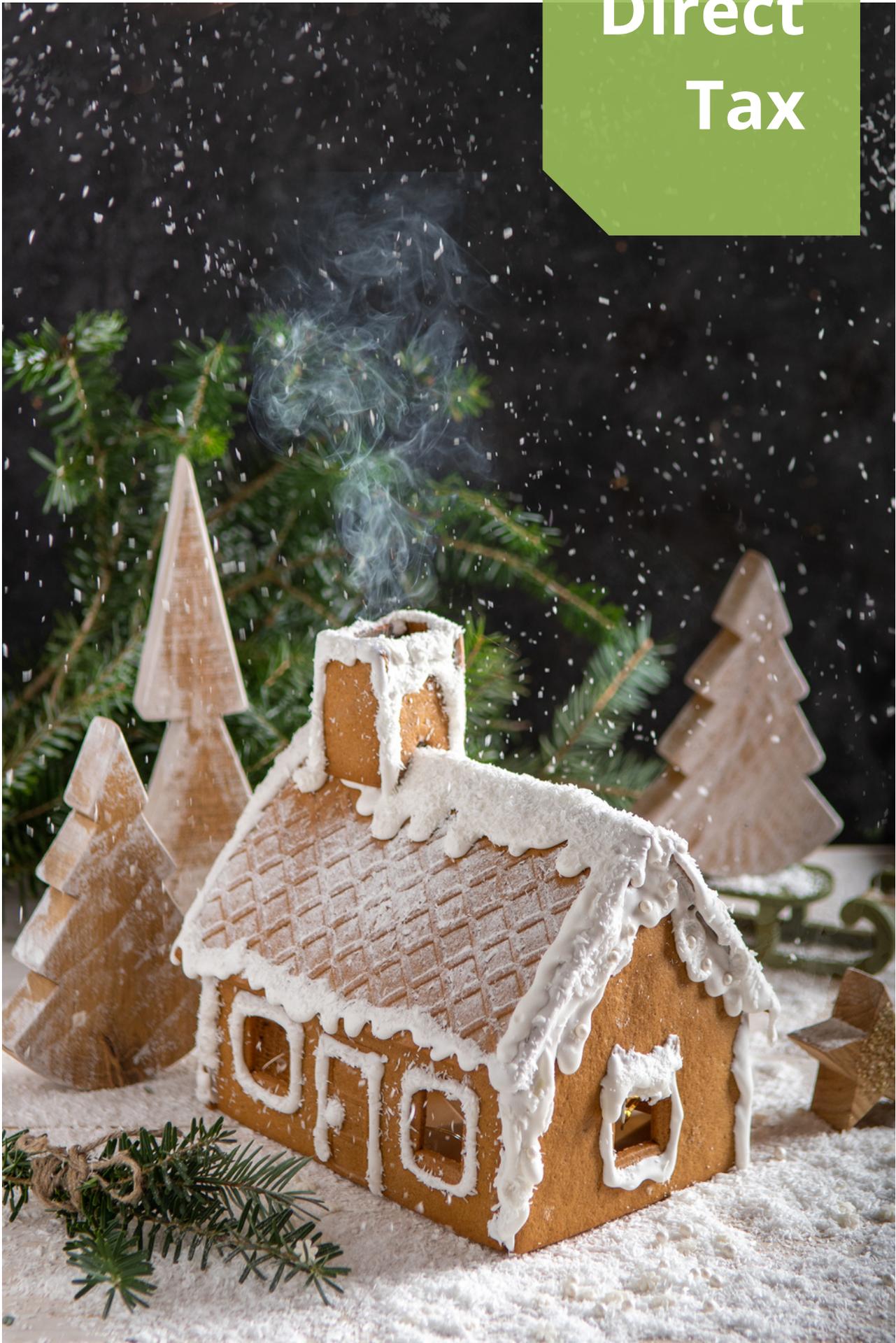
We are organizing a Webinar on 8 December 2023 on Doing Business between India and the Dominican Republic for which registrations are still open. We hope to have a lively discussion, especially considering so many UHNIs from India are taking foreign citizenship under the investment for citizenship schemes. Registrations are filling up fast so press the link now:

https://us06web.zoom.us/webinar/register/WN_TrzuM8Q4T9S4pR9xFHFjag

We would like to take this opportunity of wishing all our readers a Merry Christmas festival. On the auspicious day we hope that the bond of love and caring for the less privileged grows within us all.

U N Marwah
Chairman - RNM India

Direct Tax



1. INSTRUCTION NO. 2/2023 [F. NO. 312/82/2022-OT], DATED 10-11-2023

That the CBDT prescribes Monetary limit of Rs. 10 lakh or more to withhold refund under Sec. 245(2). The time limit is hereby revised to 20 days for the Faceless Assessment Unit and to 30 days for Jurisdictional Assessing Officer.

2. CBDT extends time limit to process refund claimed ITRs for AYs 2018-19 to 2020-21 to January 31, 2024 [F. NO. 225/132/2023/ITA-II; dated 01.12.2023]

The CBDT in view of pending taxpayer grievances related to the issue of refund, the CBDT directed that all validly filed returns for Assessment Years 2018-19, 2019-20 and 2020-21 bearing refund claims can be processed until 31-01-2024.

Important Judicial Precedents

1. Whether penalty notice issued under section 271(1)(c) gets invalidated if contradictory wordings given by the AO reflect a lack of clarity as to whether the Assessee concealed particulars of income or furnished inaccurate particulars of income - YES: HC

[2023-TIOL-1516-HC-DEL-IT_ITA No. 258/2019 PCIT-6 Vs. M/s MODI RUBBER LTD]

The AO begins by saying that the respondent/assessee had furnished inaccurate particulars of his income in respect of disallowance of various additions made by the AO and, then, while computing the penalty that he imposed on the respondent/assessee, he goes on to say that the respondent/assessee had furnished "inaccurate particulars of income or concealed income". There was obviously no clarity in the mind of the AO as to which limb of Section 271(1)(c) of the Act got attracted in the instant case for initiation, followed by imposition of penalty. Thus, for the foregoing reasons, we find that there is no substantial question of law which arises for our consideration. The appeal is, accordingly, closed.

2. Whether an assessment order cannot be passed once the company is struck off since same will be construed as passing of order against dead person - YES: HC

2023-TIOL-1523-HC-MAD-IT WP No. 11841 of 2022 and WMP No. 11278 of 2022 PANDIAN ANBALAGAN Vs. INCOME TAX OFFICER,

It is admitted by both sides that against the Company, which was struck off as early as on 21.10.2019, the re-assessment notice dated 31.03.2021 was issued and the re-assessment order dated 30.03.2022 was passed by the Dept. As far as the submission made by the counsel for the Dept. is concerned, Section 176 of the Income Tax Act mainly talks about the discontinued business and it does not mention anything about struck off of the company. Further, Section 176 of the Income Tax Act states that if any company discontinued from business and had not carried on any other business, the re-assessment order can be passed against the Principal Officer of the Company. However, the assessment order cannot be passed once the company is struck off, since the same will be construed as passing of order against a dead person. Therefore, this Court is of the view that the right course available for the Department is only to approach the NCLT in terms of provisions of Section 252 of the Companies Act read with Rules 11 and 87 of the NCLT Rules for the revival of the Company. After revival of the Company, it is open for the Department to initiate proceedings under Section 147 of the Income Tax Act.



3. Whether since revenue had framed assessment u/s 143(3) r.w.s. 144B without issuing show cause, principles of natural justice are violated and hence such assessment deserves to be quashed – YES: HC

[2023-TIOL-1524-HC-AHM-IT _R/Special Civil Application No. 15971 Of 2021 RIDDHI SECURITIES LTD Vs. THE NFAC.]

What needs to be considered in fact is whether by not issuing show cause notice while framing the assessment, principles of natural justice have at all been violated. As submitted by counsel for the assessee that a Division Bench of this court, albeit in somewhat different facts in Special Civil Application No. 4806 of 2022 in an oral judgement considering the provisions of Section 144B held that without issuing show cause notice and framing the assessment by not following the procedure prescribed u/s 144B, the revenue was in violation of the principles of natural justice. The order of assessment passed by the revenue u/s 147 rws 144B and demand notice for the AY 2018-19 u/s 156 are quashed and set aside.

4. Whether interest on late payment of TDS is not in nature of penalty, same is allowable u/s 37 of Act - YES: ITAT

2023-TIOL-1466-ITAT-AHM_ITA No. 1843/Ahd/2018 AY: 2011-12 AATASH DREDGING AND CONSTRUCTIONS PVT LTD Vs. DCIT

The assessee paid interest on the late payment of TDS. Interest is not in the nature of the penalty. Though the penalty paid is not allowable under Section 37(1) of the Act, but interest paid for late payment is prescribed under statute; on the other hand, the penalty is violation of any provision but paid the amount late but with interest, the same is allowable.Thus, it was found that as the case of late payment of TDS is not in the nature of penalty, the same is allowable under Section 37 of the Act. In that view of the matter, the above disallowance made by the authorities below to the impugned amount of Rs.2,19,170/- is hereby quashed. The addition is, therefore, deleted.

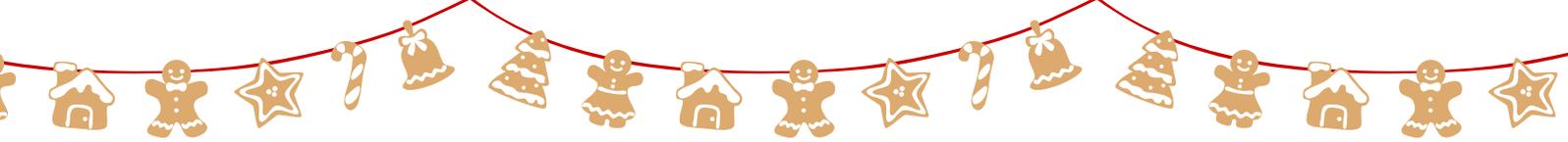
5. [2023] 156 taxmann.com 82 (Gujarat-HC) PCIT Vs. Rakesh Kailashchand Jain

Where the Assessing Officer received a report from the Investigation Wing that assessee was a beneficiary of accommodation entries in the form of bogus purchases from a group and made 100 per cent addition with respect to said purchases, the Tribunal was justified in limiting addition in respect of bogus purchases at a rate of 6 per cent of total purchases considering only income component of the disputed transaction.

6. [2023] 156 taxmann.com 308 (SC) Deputy Commissioner of Income-tax, Central Circle vs. Bharat Jayantilal Patel

SLP dismissed against the order passed by the High Court holding that where AO issued a reopening notice on the ground that capital gains income had arisen to the assessee on transfer of development rights in its land to a developer, since assessee had merely granted licence to permit construction on land to such developer but not given any possession in land as contemplated under section 53A of T.P. Act, 1882, there was no transfer as per section 2(47)(v) giving rise to any capital gain in hands of assessee and, thus, impugned reopening notice was not justified.





8. [2023] 156 taxmann.com 691 (SC) Principal Commissioner of Income-tax (Central) 2 vs. Jay Ambey Aromatics

Section 153A of the Income-tax Act, 1961 - Search and seizure - Assessment in case of (Condition precedent) - Assessment years 2010-11 and 2011-12 - High Court held that where the assessment of assessee had attained finality prior to the date of search and no incriminating documents or materials had been found and seized at the time of search, no addition could be made under section 153A as a case of the assessee was of non-abated assessment - Whether in view of decision of Supreme Court in case of Principal Commissioner of Income Tax, Central-3 v. Abhisar Buildwell P. Ltd. [2023] 149 taxmann.com 399/293 Taxman 141, no case was made out for interference and, thus, Special Leave Petition against High Court's order was to be dismissed - Held, yes [Para 3] [In favour of assessee].

8. [2023] 157 taxmann.com 6 (Delhi - Trib.) Net Agri Co. (P.) Ltd. vs. Income Tax Officer, Ward No. 18(1)

Where AO made an addition to the assessee's income on account of unexplained source of investment in property, however, CIT(A) further noting that there were certain cash deposits in the bank account of the assessee which were not explained made an addition on account of the said amount in the bank account since CIT(A) failed to put assessee on notice and questioned the source of cash deposits in the bank account and considered same as unexplained cash credits, said addition made by CIT(A) on a new source in form of source of sum credited in bank account was not sustainable.

9. [2023] 156 taxmann.com 472 (Delhi - Trib.) Chandra Pal vs. Assistant Commissioner of Income-tax, Central Circle-II

Where the Assessing Officer made an addition under section 69A on account of jewellery found in search of assessee, since assessee had shown sufficient income in its return for preceding years which showed the wealthy status of the assessee and jewellery was received on occasions from relatives, excess jewellery was very much reasonable and, thus, no addition under section 69A was to be made.

10. [2023] 157 taxmann.com 64 (Delhi - Trib.) DSD Noell GMBH vs. Deputy/Assistant Commissioner of Income-tax, Circle - 1(2)(2) (IT)

Where assessee, a tax resident of Germany, entered into an agreement with a company for offshore supply of plant and equipment as well as for offshore services (involving supply of related drawings design), in view of fact that such equipment were transferred by assessee outside India and entire sale was executed outside India, revenue received by assessee therefrom could not to be taxed in India.

11. [2023] 156 taxmann.com 640 (Chennai - Trib.) Deputy Commissioner of Income-tax, Corporate Circle vs. Ramco Systems Ltd.

Where assessee claimed relief of foreign tax credit at rate of 10 per cent of royalty received by it from Australian company and said claim was accepted by AO, but thereafter, due to revision in rate of withholding tax to 15 per cent, additional withholding tax was deducted, but AO did not allow claim of additional tax deduction, once credit for foreign withholding tax had been allowed at 10 per cent, subsequent revisional rate of tax was also required to be allowed.

Indirect Tax



**GST Calendar –Compliances for the month of
December 2023.**

| Nature of Compliances | Due Date |
|---|--------------------------|
| GSTR-7 (Tax Deducted at Source 'TDS') | December 10, 2023 |
| GSTR-8 (Tax Collected at Source 'TCS') | December 10, 2023 |
| GSTR-1 | December 11, 2023 |
| IFF- Invoice furnishing facility (Availing QRMP) | December 13, 2023 |
| GSTR-6 Input Service Distributor | December 13, 2023 |
| GSTR-2B (Auto-Generated Statement) | December 14, 2023 |
| GSTR-3B | December 20, 2023 |
| GSTR-5 (Non-Resident Taxable Person) | December 20, 2023 |
| GSTR-5A (OIDAR Service Provider) | December 20, 2023 |
| PMT-06 (who have opted for the QRMP scheme) | December 25, 2023 |
| Annual Return GSTR- 9 | December 31, 2023 |
| Statement (need Audit) GSTR-9C | December 31, 2023 |

Madras High Court permits petition on 'flavored milk' categorization dispute, asserting that the GST Council lacks the authority to ascertain classification.

Summary

The Madras High Court ruled that 'flavored milk' from dairy sources falls under Heading 0402 (5% tax) and not Heading 2202. The court emphasized that the GST Council's classification was incorrect, stating that the council's decisions are non-binding recommendations, and it lacks the authority to determine classification.

Facts

M/s. Parle Agro Private Limited contested the GST Council's decision to classify 'flavored milk' under HS Code 2202 instead of HS Code 0402, arguing it contradicts the Supreme Court's decision in the Amrit Food case and violates the Constitution of India. Additionally, the petitioner challenged the Tamil Nadu AAAR ruling in the Britannia Industries case, which upheld the AAR's decision to categorize 'flavored milk' under HS Code 2202, aligning with the GST Council's stance. Notably, the tax rate for HS Code 2202 is 12%, higher than the 5% rate under HS Code 0402.

Legal Objections

The petitioner maintained that the GST Council is solely authorized to recommend the rate of goods or services and lacks the authority to determine the classification of goods or services. Furthermore, they cited established legal principles under the Central Excise Act, asserting that 'flavored milk' naturally falls under Heading 0402. Additionally, for licensing purposes, the petitioner highlighted the classification under the Food Safety and Standards Act, 2006 (FSS), where 'flavored milk' is categorized as 'dairy products,' aligning categorically with Heading 0402.

Madras HC's observations and judgment [WP Nos. 16608 & 16613/2020; Order dated 31 October 2023]

The High Court underscored that the role of the GST Council is not to determine classification. It explicitly pointed out that the decisions of the GST Council are essentially recommendations and lack a binding effect on the government.

The High Court noted that there is no independent legislation exclusively governing classification under GST. In contrast to the previous system, the classification of goods and services is not dictated by a separate enactment. Instead, the court highlighted that applicable tax rates are explicitly notified under relevant goods and services rate notifications. The court further emphasized the reliance on the classification outlined in the Customs Tariff Act, 1974 (Customs Tariff), indicating its adoption to classify goods and services under GST.

'Flavored milk' made from dairy milk is not classified under 'beverages containing milk': The High Court clarified that such flavored milk should be categorized under Tariff Heading 0402, explicitly covering 'dairy produce.' It cannot be placed under Heading 2202, which includes non-alcoholic beverages with specified alcohol content, under sub-heading 2202 90 'beverages containing milk.' The court applied the noscitur a Sociis principle, asserting that this sub-heading pertains only to beverages containing plant/seed-based milk with specified alcoholic content. The court also referred to FSS provisions grouping and classifying dairy products. Therefore, the High Court concluded that the GST Council wrongly recommended the classification of flavored milk under Heading 2202.

Supreme Court permits full Input Tax Credit (ITC) on inputs used in the production of taxable goods, including exempt by-products, under the Uttar Pradesh Value Added Tax (UP VAT) Act.

Summary

This Tax Alert provides an overview of a recent Supreme Court (SC) ruling that interprets the provisions related to an input tax credit (ITC) under the Uttar Pradesh Value Added Tax Act, 2008 (UP VAT Act). The taxpayer, involved in the production of taxable rice bran oil (RBO), concurrently generated an exempt by-product, de-oiled rice bran (DORB).

Under Section 13(1)(f) of the UP VAT Act, ITC is permissible when goods are sold below the cost price, limited to the tax payable on the sale value of the final goods. Since the sale price of RBO was less than the manufacturing cost, the assessing authority disallowed full ITC, contending that the term "goods" in Section 13(1)(f) exclusively refers to "taxable goods."

The SC noted that the inclusion of Section 13(1)(f) aimed to restrict ITC when goods, encompassing taxable, exempt, by-products, or waste products, were sold below the cost price. The definition of "goods" in Section 2(m) makes no distinction between exempt and taxable goods. Likewise, the term "goods" in Section 13(1)(f) should not be confined to "taxable."

Disagreeing with the Allahabad High Court's reliance on the SC decision in the case of M.K. Agro Tech Private Limited, the SC highlighted the dissimilarities in the ITC frameworks of the Karnataka Value Added Tax Act, 2003, and the UP VAT Act. Consequently, the SC determined that, for Section 13(1)(f), "goods manufactured" encompasses exempt goods, allowing full ITC on inputs used in the production of both RBO and DORB by the taxpayer.

Background

The taxpayer, a registered dealer under the Uttar Pradesh Value Added Tax Act, 2008 (UP VAT Act), is involved in the manufacture and sale of taxable goods, specifically rice bran oil (RBO) and physically refined RBO. Throughout the RBO manufacturing process, a by-product, de-oiled rice bran (DORB), is generated, falling under the category of exempted goods as outlined in Schedule – I, S.No. 4 of the UP VAT Act.

Through the processing of inputs, the taxpayer produces 13.77% of RBO (taxable goods) and 83.63% of the by-product, DORB (exempted goods).

Section 13(1)(a) of the UP VAT Act allows the dealer to claim input tax credit (ITC) on purchases made by them up to a specified extent. Furthermore, as per Section 13(1)(f), in situations where goods manufactured using purchased goods are sold at a price lower than the cost price, the ITC amount is permitted up to the tax payable on the sale value of the manufactured goods.

By Section 13(3)(b), if, during the manufacturing process of Value Added Tax (VAT) goods, both exempt and non-VAT goods (excluding by-products or waste products) are produced, input tax credit (ITC) can be claimed to the extent that they are utilized in the manufacture of taxable goods, excluding non-VAT and exempt goods.

Explanation (iii) to Section 13 specifies that if, during the production of taxable goods, exempt goods are generated as by-products or waste products, it will be considered that the purchased goods were used in the manufacturing of taxable goods.





Based on these provisions, the taxpayer sought full ITC for the tax paid on inputs. However, the assessing authority rejected the claim, arguing that as per Section 13(1)(f), ITC can only be availed concerning taxable sales. Since the selling price of the final taxable goods (excluding the exempt by-product sales) was lower than the manufacturing cost, the ITC should be limited to the tax payable on the final goods.

In simpler terms, the term "goods" in Section 13(1)(f) is interpreted to mean only "taxable goods."

The disagreement escalated to the Allahabad High Court (HC). Citing the Supreme Court's (SC) ruling in the matter of M.K. Agro Tech Private Limited³, the HC held that the taxpayer was not eligible to assert full Input Tax Credit (ITC) on inputs, contending that the situation fell within the purview of Section 13(1)(f).

Dissatisfied with this decision, the taxpayer appealed to the Supreme Court (SC).

Assessee's arguments

The assessee contended that the High Court (HC) overlooked the fact that the current case is squarely covered by the provisions of Section 13(1)(a) read with Section 13(3)(b) and Explanation (iii) to Section 13 of the Uttar Pradesh Value Added Tax Act (UP VAT Act).

The assessment argued that the entire foundation of the HC judgment is flawed due to the incorrect application of the decision in M.K. Agro Tech. They emphasized that the statutory provisions under the Karnataka Value Added Tax Act, 2003 (KVAT Act), which the HC relied on, are distinct and differ substantially from those of the UP VAT Act.

Furthermore, the UP VAT Act specifically carves out an exception for by-products and waste products, allowing Input Tax Credit (ITC) on them even if they are exempt or non-VAT goods. The assessee stressed that the definition of the word "goods" under Section 2(m) makes no distinction between exempted and taxable goods. Similarly, the term "goods" under Section 13(1)(f) should not be restricted by the word "taxable." If the legislature intended to qualify "goods" with "taxable," it could have explicitly stated so in Section 13 itself.

The assessee emphasized the strict rule of interpretation applicable to taxation statutes. They argued that when the competent legislature specifies taxing certain businesses or objects in particular circumstances, it cannot be interpreted to include those that were not intended by the legislature.

SC Ruling

The assessee argued that the statement of objects and reasons for the enactment of Section 13(1)(f) through the 2010 Amendment Act reveals the legislative intent. The primary objective was to limit input tax credit to the extent of tax payable on the sale value of goods or manufactured goods in cases where the purchased goods are resold or the goods manufactured using those purchased goods are sold at a price lower than the purchase or cost price.

The assessment contended that a plain reading of this statement indicates that the legislative intent was never to restrict the scope of "goods" in Section 13(1)(f) solely to "taxable goods." The mischief addressed by the introduction of Section 13(1)(f) was when goods, including taxable, exempt goods, by-products, or waste products, were sold at a price lower than the cost price. In such cases, the permissible or allowable input tax credit would be limited to the tax payable on the //sale value of the goods.

The argument emphasized that if the legislative intent had been to limit the scope of "goods" under Section 13(1)(f) only to "taxable goods," the legislature could have expressly used the phrase "taxable goods" in the provision. Wherever the legislative intent was to qualify "goods" with the term "taxable," it has been explicitly done in Section 13 itself.

The assessee further asserted that a taxing statute must be construed strictly. Accepting the revenue's case would allow the assessing authority to indirectly achieve what cannot be done directly, circumventing the exception carved out by Section 13(3)(b) read with Explanation (iii) by invoking Section 13(1)(f) of the UP VAT Act.

Additionally, the assessee argued that the decision in M.K. Agro Tech does not apply to the present case as the provisions under the Karnataka Value Added Tax Act (KVAT Act) differ significantly from the UP VAT Act regarding the scheme of Input Tax Credit (ITC). The Supreme Court in the M.K. Agro Tech case examined Section 17 of the KVAT Act read with Rule 131 of the KVAT Rules, 2005, and held that ITC was admissible to the extent of inputs used in the "sale" of taxable goods. However, in the present case, the ITC pertains to "manufacture" and not "sale."

Explanation (iii) to Section 13, coupled with Section 13(3)(b) of the UP VAT Act, establishes a legal fiction. It stipulates that during the production of taxable goods, if any exempt goods are generated as by-products or waste products, it shall be deemed that the purchased goods were utilized in the manufacturing of taxable goods.

The High Court's reliance on M.K. Agro Tech is deemed incorrect. This decision is not applicable to the circumstances of the current case, and it cannot be used as a basis to withhold full Input Tax Credit (ITC) from the assessee.

Given these considerations, the Supreme Court allowed the assessee's appeal and annulled the order issued by the High Court.



Statutory Audit



Audit trail Feature in Accounting Software

(effective from april1 2023)

DEFINITION

- Audit trail is combination of two words where:
- Audit refers to examination of records
- Trail refers to series of clues that are left behind
- An audit trail is, essentially, proof of all the changes made to your financial data
- In general it is the history of a particular document since its creation

PURPOSE

- Audit is a vast task depending on the financial statement there are some inherent limitation of audit that an auditor is not expected to mitigate the risk to zero.
- Intentionally committed fraud are difficult to identified or where there is involvement of top level management.
- Where client use to commit fraud most common method is by manipulating the records
- Earlier there was not any track that who has made the changes in financial records and the fraud cannot be identified by whom it is committed
- Audit trails works like a spy for an Auditor to track the changes in records that can make scrutiny task reliable
- An audit trail is primarily put together to prove that this information is verified, and it's one of the best practices that your business can follow

BENEFITS

- Tracks user activities
- Prevents fraud
- Smooth audits

HOW TO MAINTAIN AN AUDIT TRAIL

- Audit trails begin with the source document, whether that's an invoice, receipt, or purchase order. If you're opting to maintain an audit trail via a ledger, you would need to attach the physical documents along with it as proof. Instead of doing it the manual way, letting your software do the work for you will make things a lot easier because every change will automatically be recorded when you create a transaction. This information would be kept secure for you to revisit anytime, helping you locate any discrepancies.
- One challenge that people may come across is having to edit transactions for multiple reasons, even if there was an entry error or a change in price, and this may make it difficult to navigate through the logs. However, this can be made a lot smoother with accounting software.

HOW ACCOUNTING SOFTWARE HELPS WITH AN AUDIT TRAIL

- Cloud accounting system is a Way where you can store all your data securely.
- Software systems equipped with an audit trail feature would usually store logs of any transactions and automatically capture any changes made to them since they were opened, along with the user's identity, date, and time.



IMPLEMENTATION AND CHANGE IN AUDITOR'S REPORT

MCA has issued a notification dated 24-03-2021 regarding Companies (Accounts) Amendment Rules, 2021 and Companies (Audit and Auditors) Amendment Rules, 2021, as well as a subsequent notification dated 01st April, 2023, which includes audit trail in accounting software for companies as a new sub rule to Section 128 of the Companies Act, 2013. However, it was subsequently postponed to later dates, and they are now ultimately required as of April 1, 2023.

following clause is inserted in Rule 11 of Companies (Audit and Auditors) Rules, 2014 on which Auditor of the Company will give their views and comments while preparing audit report: "Whether the company, in respect of financial years commencing on or after the 1st April, 2023 has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention."



Corporate Finance



Ultratech To Acquire Kesoram's Cement Business In \$645 Mn Deal

India's UltraTech Cement will buy the cement business of Kesoram Industries in an all-stock deal valued at \$645 million (around INR 53 billion), boosting its capacity ambitions in a highly competitive sector. As part of the deal, Ultra Tech will issue one share for every 52 shares of Kesoram and give UltraTech ownership of two integrated cement units in southern Indian states of Karnataka and Telangana. The deal implies an offer price of INR 173.15 per share, a 24.2% premium to Kesoram's last close.

Private Equity

Hearzap Nets \$6 Mn From 360 One's PE Fund

Hearing Solutions Pvt Ltd, which runs hearing care chain Hearzap, has raised \$6 million (around INR 50 crore) in an undisclosed funding round from 360 One Asset Management Ltd's healthcare and life sciences-focused private equity fund.

(Source: VC Circle, 8th November 2023)

Go Mechanic Secures \$6 Mn In First Capital Raise After Acquisition

Automobile car service and repair company GoMechanic has raised \$6 million (around INR 50 crore) in a new funding round. The company did not disclose the names of investors.

(Source: VC Circle, 8th November 2023)

KKR-Backed InCred Finance Raises Fresh Capital As Valuation Tops \$1 Bn

InCred Finance, the lending arm of financial services provider InCred Group, raised \$60 million (around INR 500 crore) in its Series D round of funding. The company did not disclose names of its investors.

(Source: VC Circle, 9th November 2023)

Clove Dental Grabs \$50 Mn From Qatar Investment Authority

Global Dental Services Ltd, which operates the homegrown dental chain Clove Dental, has secured \$50 million in funding from Qatari sovereign wealth fund Qatar Investment Authority.

(Source: VC Circle, 24th November 2023)

Venture Capital

Fibmold Raises Early-Stage Funding

Fibmold has raised \$10 million (around INR 83 crore) in a funding round from Omnivore and Accel.

(Source: VC Circle, 2nd November 2023)

Sequaretek Raise Early Stage Funding

Cybersecurity firm Sequaretek has raised \$8 million (around INR 66.6 crore) in a Series A funding round led by Omidyar Network India. The round was a mix of debt and equity infusion, also saw participation from Alteria Capital.

(Source: VC Circle, 7th November 2023)

UK's BII, Others Back Euler Motors In Extended Series C Round

Electric vehicle company Euler Motors has raised \$14.4 million (around INR 120 crore) in an extended Series C round from British International Investment (BII), the UK government's development finance institution, and climate-focused investment firm Green Frontier Capital.

(Source: VC Circle, 6th November 2023)





Vaaree Pockets Seed Funding

Vaaree has secured \$4 million (around INR 33.3 crore) in a seed funding round Peak XV's rapid scale-up program Surge. The round also saw participation from PeerCapital, All in Capital and Better Capital.

(Source: VC Circle, 7th November 2023)

Xpressbees Snags \$80 Mn From Ontario Teacher's Arm

Logistics Unicorn Xpressbees has raised \$80 million (around INR 665 crore) from Teachers's Venture Growth (TVG), late stage investment arm of Ontario Teacher's Pension Plan.

(Source: VC Circle, 7th November 2023)

Mergers & Acquisitions

Rainmatter Backed Game Theory Snaps Up Matchday

Sportstech startup Game Theory raised \$2 million (around INR 16.6 crore) in a pre-Series A funding round led by Nithin Kamath's Rainmatter Capital, acquired sports analytics startup Matchday.ai. Financial details of the deal were not disclosed.

(Source: VC Circle, 9th November 2023)

Dehaat Acquires Freshtrop's Fruit Export Business

Temasek backed agritech startup Dehaat has acquired fresh fruit export business of Freshtrop Fruit Ltd. Financial details of the detail were not disclosed.

(Source: VC Circle, 14th November 2023)

Bizongo Snaps Up Titan Capital-Backed Firm In Third Acquisition

Tiger Global-backed vendor digitization platform Bizongo has acquired Titan Capital-backed FactoryPlus, a factory digitization app for micro, small and medium enterprises (MSMEs). Financial details of the deal were not disclosed.

(Source: VC Circle, 21th November 2023)

IHH Healthcare-Backed Fortis Sells Chennai Facility To MGM Healthcare

Fortis Healthcare Ltd, the hospital chain controlled by Malaysia's IHH Healthcare will sell its Chennai facility to MGM Healthcare Pvt Ltd. Fortis Healthcare will sell Fortis Malar Hospital Ltd for \$15.4 million (around INR 128 crore). The transaction will be completed by end of January 2024.

(Source: VC Circle, 24th November 2023)

RP-Sanjiv Goenka's PCBL To Acquire Aquapharm For \$456 Mn

RP-Sanjiv Goenka Group's PCBL Ltd has agreed to acquire 100% stake in Pune-based Aquapharm Chemicals Pvt. Ltd for \$456 million (around INR 3800 crore). Acquisition is set to be completed in two to three months.

(Source: VC Circle, 29th November 2023)

Transaction & Regulatory Advisory Services



In this edition we have tried to bring to your notice the latest amendments that followed in the month of November, 2023 issued by MCA, RBI, SEBI, IBBI and others.

MCA

Commerce Ministry to collaborate with e-commerce companies to promote exports from districts (November 23, 2023)

In a significant move to enable micro, small and medium enterprises (MSMEs) and boost e-commerce exports from the country, Directorate General of Foreign Trade (DGFT), Ministry of Commerce and Industry, Government of India is collaborating with the various e-commerce players to leverage the Districts as Export Hubs initiative and promote e-commerce exports from the country. In first such collaboration with different e-commerce platforms, DGFT has signed a memorandum of understanding (MoU) with Amazon India

To Read More:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1979068>

More than 200 unique Geographical Indications (GIs) products exhibited in Geographical Indication (GI) Pavilion in the India International Trade Fair(November 15, 2023)

The Department for Promotion of Industry & Internal Trade, Ministry of Commerce & Industry is hosting the largest Geographical Indication (GI) Pavilion in the India International Trade Fair at ITPO, Pragati Maidan from 14 to 27 November, 2023. The Pavilion was inaugurated by the Hon'ble Union Minister of State for Commerce and Industry, Shri Som Parkash on here today, the Janjatiya Gaurav Diwas, and laid the red carpet for public viewing. The GI Pavilion is witnessing participation from more than 600 artisans from 28 States and Union Territories with more than 200 unique Geographical Indications (GIs) products from Agriculture to Food to Handicrafts and Handloom to cater the interests of every age group. GI products carry specific characteristics and possess qualities attributed to geographical origin. Artisans from different tribes and women entrepreneurs have been given the centre stage for the presentation of their craft. Enthusiastic participation from artisans is making the GI Pavilion a confluence of cultural exchange and business opportunities. In the Pavilion, live demonstration and portrayal of traditional artworks like Gond Painting, Warli painting, Pithora painting, Shamphee Lanphee, Sandur Lambani Embroidery, Odisha Pattachitra, etc. by Padma Shri and National awardees give visitors a firsthand experience of India's rich traditional and cultural soul.

To Read More:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1977215>



BANKING

Lenders asked to avoid risks: FM Sitharaman (November 23, 2023)

Finance minister Nirmala Sitharaman on November 23, 2023 urged lenders to exercise prudence while lending, reinforcing the Reserve Bank of India's (RBI) advice to adhere to core banking practices amid the push for digital transformation. In her address at the Digital Acceleration & Transformation Expo 2023, Sitharaman highlighted the RBI's warning to Non-Banking Financial Companies (NBFCs) and Small Finance Banks (SFBs) against overextending their lending activities.

To Read More:

<https://www.livemint.com/industry/banking/lenders-asked-to-avoid-risks-fm-sitharaman-11700744362519.html>

Regulations must support innovation: RBI Deputy Governor Rajeshwar Rao (November 24, 2023)

The regulatory framework must be redefined in such a manner that it supports innovation, Reserve Bank of India (RBI) Deputy Governor Rajeshwar Rao said in a speech on November 23, 2023. "The innovations and collaborations need to be well thought out, risks properly analysed and mitigation plans must be put in place before offering them to customers," he said at an event organised by Federation of Indian Chambers of Commerce and Industry and the Indian Banking Association.

To Read More:

<https://www.financialexpress.com/business/banking-finance-regulations-must-support-innovation-rbi-deputy-governor-rajeshwar-rao-3315669/>

High attrition keeps private banks on their toes (November 30, 2023)

The attrition at private banks has been high in recent years as the workload of employees has increased. Additionally, intense competition from fintechs and new-age lenders has also led to poaching of employees, said experts. At a recent public event, Reserve Bank of India (RBI) Governor Shaktikanta Das noted that the attrition at private sector banks is high & and that the central bank is closely looking at the issue. In his speech, Das urged banks to build a core team to deal with such issues.

To Read More:

<https://www.financialexpress.com/business/banking-finance-high-attrition-keeps-private-banks-on-their-toes-3321186/>

'Stricter norms a preemptive measure for sustainable lending' says RBI Governor Shaktikanta Das (November 22, 2023)

The Indian Banks' Association (IBA) and the Federation of Indian Chambers of Commerce and Industry (FICCI) have jointly organised the FIBAC event. RBI Governor Shaktikanta Das, at the annual FIBAC event on November 22, 2023, underscored that the recent stricter norms on unsecured lending were aimed at sustainability. He clarified that while certain sectors like housing and vehicle loans, along with small business credits, were exempted, it was due to their positive impact on economic growth.

To Read More:

<https://www.livemint.com/industry/banking/stricter-norms-a-preemptive-measure-for-sustainable-lending-says-rbi-governor-shaktikanta-das-11700637184016.html>

Unsecured retail loans' growth to ease in FY24: Crisil Ratings (November 23, 2023)

Unsecured retail loans are likely to see slower growth of 20-30% compared to 45% last year, as Non-Banking Financial Companies (NBFCs) alter their strategies due to the recent regulatory measures issued by the Reserve Bank of India, said Crisil Ratings. The RBI last week ordered banks and NBFCs to set aside more capital for consumer loans which will cost an estimated ₹84,000 crore in capital. These new guidelines will make personal loans and credit cards more expensive as banks could increase rates to offset the higher cost of capital.

To Read More:

<https://economictimes.indiatimes.com/industry/banking/finance/banking/unsecured-retail-loans-growth-to-ease-in-fy24-crisil-ratings/articleshow/105425129.cms>

Higher risk weight on unsecured bank loans credit positive: Moody's (November 21, 2023)

The Reserve Bank of India (RBI) diktat last week asking lenders to increase risk weights on unsecured consumer credit loans like personal loans and credit card by 25% is a "credit positive" step, as it will force lenders to allocate higher capital on such risky loans and may dampen the pace of the unsecured loan growth, global rating agency Moody's said in a note November 20, 2023.

To Read More:

<https://www.financialexpress.com/business/banking-finance-higher-risk-weight-on-unsecured-bank-loans-credit-positive-moodys-3312288/>

COMPETITION COMMISSION OF INDIA

CCI approves the proposed acquisition by Atlas 2022 Holdings Limited to increase its voting rights/shareholding in Vodafone from 14.6% to less than 25% in Vodafone Group Plc. (November 29, 2023)

Atlas 2022 Holdings Limited (Atlas) is a wholly-owned subsidiary of Emirates Telecommunications Group Company PJSC (e&). Atlas was incorporated on 24th February 2022, in the Cayman Islands, for the purposes of acquiring and holding e&'s current 14.6% interest in Vodafone. e& is a telecommunications operator headquartered and based in Abu Dhabi, United Arab Emirates which was previously known as Etisalat Group. e& provides services in various countries across the Middle East Asia and Africa. Neither Atlas nor e& has any physical presence in India (e& does not have any Indian subsidiaries). e& does not hold a licence to operate as a mobile network operator in India. Vodafone Group Plc. (Vodafone) is a British telecommunications operator headquartered and based in Newbury, England. It provides mobile and fixed-line connectivity services, as well as connectivity products and services to customers predominantly across Europe, Africa and Asia. In India, Vodafone is active in the telecommunications sector through Vodafone Idea Limited (VI India) and its stepdown subsidiaries. VI India offers mobile telephony services; broadband services; content and digital offerings (in partnership with various over-the-top apps and content creators); and various Value Add Services.

To Read More:

<https://www.cci.gov.in/antitrust/press-release/details/336>

UK Tax Update Report



Chancellor Jeremy Hunt Unveils Pivotal Financial Roadmap for the Year Ahead

In a recent House of Commons address, Chancellor Jeremy Hunt laid out the government's financial blueprint for the upcoming year, impacting individual finances and allocating funds for crucial public services. Here's a concise summary of the key points:

Taxation and Income Adjustments:

- Main National Insurance rate drops from 12% to 10% from January 6, affecting 27 million individuals.
- Class 2 National Insurance for self-employed individuals earning over £12,570 abolished from April.
- Class 4 National Insurance for self-employed individuals, paid on profits between £12,570 and £50,270, decreases from 9% to 8% starting April.
- National Living Wage increases from £10.42 to £11.44 per hour in April, applicable to 21 and 22-year-old workers.

Benefits and Pension Changes:

- Working-age benefits, including Universal Credit, increase by 6.7% in England and Wales from April.
- Local Housing Allowance rates unfrozen and raised to 30% of local rents from April.
- £1.3 billion fund over the next five years assists individuals with health conditions in securing employment, with an additional £1.3 billion for those unemployed for over a year.
- State pension payments rise by 8.5% from April, aligning with average earnings.

Economic and Fiscal Outlook:

- Chancellor introduces 110 measures aimed at fostering economic growth.
- OBR projects gradual economic expansion, with growth reaching 1.7% in 2028.
- Inflation forecasted to decline to 2.8% by the end of 2024, reaching the Bank of England's 2% target in 2025.
- Living standards not expected to return to pre-pandemic levels until 2027-28.
- Underlying debt projected to be 91.6% of GDP next year, peaking at 93.2% in 2026-27 before declining to 92.8% in 2028-29.
- Borrowing anticipated to decrease from 4.5% of GDP in 2023-24 to 1.1% in 2028-29.

Business and Infrastructure Highlights:

- "Full Expensing" tax break for companies made permanent.
- 75% business rates discount for retail, hospitality, and leisure firms in England extended for another year.
- Premium planning services across England expedite decisions for major business applications.
- £4.5 billion fund aims to attract investments in strategic manufacturing sectors.
- £500 million over the next two years allocated for artificial intelligence innovation centres.
- Financial incentives for investment zones and tax reliefs for freeports extended to 10 years.
- New investment zones announced for the West Midlands, East Midlands, Greater Manchester, Wrexham, and Flintshire.
- £80 million allocated for new Levelling Up Partnerships, focusing on regeneration projects in Scotland.



Government Spending Overview:

- Government reiterates commitments to allocate £14.1 billion for the NHS and adult social care in England and an additional £2 billion for schools for both 2023-24 and 2024-25.
- Equivalent funding provided to devolved governments in Scotland, Wales, and Northern Ireland.
- Due to higher inflation, the real value of departmental budgets projected to be £19 billion lower by 2027/28 compared to March forecasts.
- Defence spending remains at 2% of national income, adhering to NATO commitments.
- Overseas aid spending retained at 0.5% of national income, falling below the official 0.7% target.

Additional Measures:

- Freeze on all alcohol duty continues until August 1 next year.
- Duty rate on tobacco products increases by 2% above RPI inflation, with hand-rolling tobacco facing a 12% increase above RPI.
- Fuel duty remains unchanged at 52.95p per litre for both petrol and diesel.
- Financial commitment of up to £7 million over the next three years allocated to organizations addressing antisemitism in schools and universities.
- £5 million in funding designated for the establishment of the Fleming Centre for health innovations.
- £3 million allocated to the Tackling Paramilitarism Programme in Northern Ireland.

Summary

In Chancellor Jeremy Hunt's Autumn Statement, a comprehensive set of measures was unveiled, striking a balance between immediate needs and long-term economic resilience. Key highlights include a reduction in the National Insurance rate, increases in the National Living Wage, and strategic investments for economic growth. The government's commitment to fiscal responsibility is evident in extended business rates discounts and funding allocations. While optimistic growth projections are outlined, challenges persist, notably the gradual return of living standards to pre-pandemic levels. Overall, the Autumn Statement reflects a multifaceted strategy to address immediate imperatives and foster enduring economic resilience.



Foreign Market Updates

By Guest Contributors



Offshore Financial Centres: Why do Business Offshore?

Offshore Financial Centres (“OFCs”) are countries or jurisdictions that provide financial services beyond their borders on a scale that outpaces their domestic economies. Typical examples of OFCs are Bermuda, BVI and the Cayman Islands. Because of the unique advantages they offer, OFCs have established a central place in the global economy and are consistently sought out by sophisticated investors, established financial institutions and innovative entrepreneurs.

Indeed, global capital markets are underpinned by OFCs and offshore companies. As of June 2022, more than half of the companies listed on the Main Board of the Stock Exchange of Hong Kong were registered in the Cayman Islands, one of the leading offshore jurisdictions alongside Bermuda and the British Virgin Islands (BVI). Such companies benefit from unique features both in terms of capital and daily operations, some of which are outlined below.

Transparent Tax-Free Environment

OFCs are characterised by low tax rates and straightforward tax management institutions. The Cayman Islands, for example, does not impose any direct tax on Exempted Companies incorporated within the jurisdiction (with the exception of stamp duty applicable in limited occasions). The Cayman Islands Tax Concessions Act (most recently revised in 2018) also guarantees that even if legislation is enacted in the jurisdiction imposing tax in the future, Exempted Companies and their operations will not be subject to such tax. This creates a consistent, predictable and business friendly taxation environment for investors and entrepreneurs worldwide.

Tax transparency is also a key feature of reputable OFCs. Bermuda, BVI and the Cayman Islands are recognised by the Organisation for Economic Co-operation and Development (OECD) as being “committed to improving transparency and establishing effective exchange of information in tax matters,” having made commitments towards transparency and implemented measures to comply with global standards in sharing of tax information. Regulatory frameworks in the three jurisdictions are also robust and well established for many centuries.

Mature Commercial Law Institutions and Common Law Practices

Among OFCs, Bermuda, BVI and the Cayman Islands stand out for their sophisticated commercial and funds laws. For example, in Cayman Islands, the Companies Act (formerly the Companies Law) was first introduced in 1964. It has since been amended more than 60 times, with approximately two thirds of the amendments made after the year 1990. Such rigorous attention to legislative provisions demonstrates the jurisdiction’s commitment to the critical institution of commercial law.

While each of Bermuda, BVI and the Cayman Islands have their own constitutional laws and legal institutions, they are formally Overseas Territories of the United Kingdom. This means that although the multi-lateral conventions and treaties ratified by the United Kingdom do not automatically apply in these Overseas Territories, a substantial part of the legislations have been extended there to ensure the common law and equity law will be applicable in these jurisdictions. This contributes to create and provide a predictable, neutral and consistent political and economic environment to demonstrate the benefits of freedom of contract and autonomy of business in for parties with different commercial interests.



What's more, as British Overseas Territories, the Judicial Committee of the Privy Council (the "JCPC"), located in the Great Britain, is the highest court of appeal in these jurisdictions. Given that an overlap exists between the membership of the JCPC and the Supreme Court of the United Kingdom, which is the current court of final appeal of cases in England, Wales and Northern Ireland, it is fair to say that cases originating in these OFCs are on an equal legal footing to those judged throughout the United Kingdom. The internationally respected jurisprudence of the English legal system and the independent and impartial judiciary are a key advantages for doing business offshore.

Strong Enforcement of Judgments and Awards

Since most corporations in OFCs conduct their operations in other jurisdictions, the recognition and enforcement of judgments of foreign courts or awards of foreign arbitral tribunals are a critical business issue. In general, the Bermuda, BVI and Cayman Islands courts tend to enforce most foreign judgments and awards unless there is cogent evidence that such judgment or award contains fatal error. These enforcement practices offer confidence in the knowledge that proper pleadings, even made abroad, will be supported by the relevant court.

Conyers is a leading offshore law firm advising clients around the world on the laws of Bermuda, BVI and the Cayman Islands in the areas of corporate finance, funds, dispute resolution, insolvency and restructuring, corporate secretarial and regulatory compliance. With offices in these three jurisdictions as well as in Hong Kong, London and Singapore, we provide responsive, sophisticated and strategic advice alongside comprehensive fiduciary services.

Author

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Tax Calendar



December 2023 - Tax Calendar

| | |
|--------------------|--|
| 7 DECEMBER | Due date for deposit of Tax deducted/collected for the month of November, 2023 |
| 15 DECEMBER | Third instalment of advance tax for the assessment year 2024-25 |
| 15 DECEMBER | Due date for issue of TDS Certificate for tax deducted under section 194-IB, 194-IA, 194M, and 194S in the month of October, 2023 |
| 30 DECEMBER | Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of November, 2023. |
| 30 DECEMBER | Furnishing of report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is January 1, 2022 to December 31, 2022) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc. |
| 31 DECEMBER | Filing of ' belated/revised return of income ' for the assessment year 2023-24 for all assessee (provided assessment has not been completed before December 31, 2023) |





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