



PUBLICATION VOL NO 156 JANUARY 2022



CONTENTS



Editorial



Private Equity, Venture Capital and Mergers & Acquisitions News



Direct Tax Alert



Latest Amendments issued by MCA RBI, SEBI, DIPP



Indirect Tax News Letter



TAX Calendar



EDITORIAL



CA U N MARWAH

Senior Managing Partner



During the month of January 2022, Team RNM organized a Masterclass Webinar on "How to pick your Alternative Investments in 2022" with Mr. Amit Khosla, Founder Valtrust Capital an asset management company, Ms. Shikha Mehra, Founder MainChain Research & Consulting, a Block Chain and Cryptocurrency expert and Mr. Alex Alexander, Executive Director Redwood Finance a Mauritius based investment dealer as Guest Speakers other than Mr. Prakash Kumar Jain, Partner-Direct Tax RNM India, Mr. Varun Verma, ED RNM Capital Advisors which was moderated by Mr. Raghu Marwah, CEO, RNM India. The Speakers shared their investment thesis, future of crypto investing, challenges of investing in Africa and the macro headwinds for the year ahead. For those who missed out, you would find the full webinar on RNM India's YouTube channel and snippets on social media.

We are also pleased to announce the launch of RNM UK website www.ukrnm.com and social media handles catering to the regular developments in the UK regulatory environment. We hope that Indian mid-market entities looking to go global will consider the UK market favourably, especially given the impending India-UK Free Trade Agreement.

The RNM Special Issue on the Union Budget 2022 has gone digital and I hope you have all received the new easy to read flipbook separately. We are organizing a very special Webinar on 25th February 2022 with industry experts and CEOs so hope you register in time for the same.

We wish all our readers a very Happy Maha Shivratri on 1st March and hope the oncoming summer season brings happiness and joy to everyone.

Private Equity, Venture Capital and Mergers & Acquisitions News

Tata group takes control of Air India:

India's auto-to-steel conglomerate in October 2021 emerged as the winner of the bidding process started for state-run carrier Air India. Tata Group was handed the ownership of the airline after 70 years on 28 January 2022. The conglomerate was awarded the deal in a \$2.4 billion equity and debt deal, bringing an end to years of struggle to privatize the airline which was troubled by financial turmoil. The Air India strategic disinvestment transaction was completed with the transfer of \$360 million to the government and Tata Group taking over more than \$2 billion of debt. The strategic deal is inclusive of Air India, its low-cost arm Air India Express, and AI SATS. With this, Tata Group now operates three airlines in India, the other two being Vistara and AirAsia India.

Here is the latest financial news on private equity, venture capital and mergers & acquisitions:

Private Equity (PE) :

Fintech platform CASHe raises \$19 mn from its Singaporean parent TSLC:

CASHe, a fintech platform, has raised Rs 140 crore in equity funding from its holding company TSLC Pte Ltd. The holding company is based out of Singapore and owns the entire portfolio of intellectual property and technology of CASHe and controls CASHe's India operations. (Source: VC Circle 04 January 2022)

NewQuest Capital bets \$68 mn in packaged food maker id Fresh, Helion exits:

iD Fresh Food (India) Pvt. Ltd, in a Series D funding round led by PE firm NewQuest Capital, has raised a sum of Rs 507 crore. This round also facilitates secondary exit to Helion Venture Partners which backed the brand in its early days. The round also witnessed participation from an existing investor, Premjilnvest.

(Source: VC Circle, 04 January, 2022)

ADIA invests \$235 mn in Mindspace REIT; Blackstone makes full exit:

In a bold move, Abu Dhabi Investment Authority (ADIA) has acquired 9.2% in Mindspace Business Parks REIT from global asset management firm Blackstone Inc. The asset management firm was on the lookout to offload its balance 9.2% stake in the REIT. Mindspace REIT, second to be listed, is backed by Mumbai-based real estate firm K Raheja Corp. and Blackstone, which was a minority shareholder.

(Source: VC Circle 10 January, 2022)

Lotus Herbals picks up a minority stake in D2C beauty brand Conscious Chemist:

Lotus Herbals Pvt. Ltd has picked up a 25% stake in clean beauty direct to consumer (D2C) brand Conscious Chemist. With this investment, the Indian cosmetic major completes its third consecutive investment in the new-age Indian beauty & D2C brand segment. (Source: VC Circle 20 January, 2022)

Advent to buy controlling stake in Avra Labs to strengthen bulk drug biz in India:

Advent International has announced to buy a controlling stake in Avra Laboratories Pvt Ltd in a plan to boost its active pharmaceutical ingredients (API) business in India. Reportedly, Advent International paid \$100 million to the drug maker's promoters AV Rama Rao and his family. (Source: VC Circle 24 January, 2022)

o9 Solutions raises \$295 mn from General Atlantic, others; valn more than doubles:

General Atlantic and its climate investing venture BeyondNetZero have invested \$295 mn in an enterprise software platform, o9 Solutions Inc. The round also saw participation from Generation Investment Management and existing investor KKR. o9 Solutions saw its valuation rise from \$1 billion to \$2.7 billion after the fundraise.

(Source: VC Circle 27 January, 2022)

Avanse Financial raises \$48 mn in its first securitisation deal with Northern Arc:

Avanse Financial Services Ltd has closed its first securitization transaction to raise Rs 357 crore from debt financier, Northern Arc Capital. The education-focused non-banking financial company (NBFC) will use the long-term funding of 10 years for the expansion of Avanse Financial Services' education financing program and thus, strengthen its leadership position in the lending space. (Source: VC Circle 28 January, 2022)

• Venture Capital

Falcon Edge's Alpha Wave invests \$4.6 mn in B2B startup Groyyo:

In a round led by Alpha Wave Incubation, b2b manufacturing and automation company Groyyo Pvt Ltd has raised \$4.6 million. Alpha Wave is backed by DisruptAD & ADQ's venture platform and managed by Falcon Edge Capital. The round also saw participation from angel investors, early-stage investors and venture-debt funds.

(Source: VC Circle 03 January, 2022)

Exotel raises \$40 mn in a Series D funding led by Steadview Capital:

Exotel has raised \$40 million in a funding round led by Steadview Capital. The customer engagement platform has expansion plans for fresh funding in the Middle East & Southeast Asia regions and also plans to use the funding for strategic acquisition purposes. (Source: VC Circle 04 January, 2022)

Zupee inks pact with Jio; closes Series B at \$600 mn valuation:

Zupee, a skill-based real money gaming platform and Jio Platforms Ltd have partnered in a revenuesharing deal that includes a Series B funding round of \$102 million in Zupee. The deal valued the startup at \$600 million.

(Source: VC Circle 05 January, 2022)



i. M/S. Icon Engineering Works Vs. The DCIT, CPC Bangalore 2022 (2) TMI 228 -ITAT Bangalore

The assessee would be entitled to deduction of employees' contribution to PF and ESI provided that the payments were made prior to the due date of filing of the return of income u/s 139(1) - Also further held by the ITAT that amendment by Finance Act, 2021, to section 36[1][va] and 43B of the Act is not clarificatory. Therefore, the amended provisions are not applicable for the assessment years under consideration.

ii. Godha Realtors (P.) Ltd. v. Asstt. Commissioner of Income-tax, Circle2(2) [2022] 135 taxmann.com 24 (Bangalore - Trib.)

No capital gains arises in the year in which an agreement to sell is entered into with buyer without possession being given to buyer, as there is no "transfer" within the meaning of section 2(47).

iii. S.P. Velayutham v. Asstt. Commissioner of Income-tax [2022] 135 taxmann.com 43 (Madras)[28-01-2022]

Mere failure to pay tax will not qualify as 'wilful attempt to evade tax' when assessee made no effort to suppress his income in ITR which was accepted as correct by Department and he made no attempt to alieanate his property to evade tax liability.

iv. Sudesh Taneja v. Income Tax Officer, Ward-1(3) [2022] 135 taxmann.com 5 (Rajasthan)

New provisions apply to reassessment notices issued on or after 1-4-2021 for AYs prior to AY 2021-22 also. Original provisions upon their substitution stood repealed for all purposes and had no existence after introduction of the substituting provisions. We may refer to Section 6 of the General Clauses Act, 1897 which provides interalia that where the State Act or Central Act or regulation repeals any enactment then unless a different intention appears repeal shall not revive anything not in force or existing at the time at which the repeal takes effect or affect the previous operation of any enactment so repealed or anything duly done or suffered there under.

i.Principal Commissioner of Income-tax (Central)-3 v. Agson Global (P.) Ltd. [2022] 134 taxmann.com 256 (Delhi)

Addition u/s 68 is not attracted when assessee-company routs its own accounted money back to itself, through other entities, as share capital/premium especially when the same is done through banking channels. AO cannot make any additions under section 68 where assesseecompany loans its funds to other entities which then invest it back in assessee company as share capital unless the funds so routed back are assessee-company's unaccounted money. Routing of assessee-company's duly accounted money back to itself may violate other laws, but that does not attract section 68.

ii.Principal Commissioner of Income Tax-1, Kolkata v. Orchid Griha Nirman (P.) Ltd. [2022] 134 taxmann.com 281 (Calcutta)

No tax is attracted in the hands of firm u/s 45(3) or otherwise, where partners bring in land which is held by partners as inventory as their capital contribution and amount is recorded as capital contribution at its cost to the partners and later on the inventory of land is converted into fixed asset and revalued in order to justify the huge bank loan obtained on the security of the land. Note: Conversion of inventory into capital asset is taxable under section 28(via) of the Act with

effect from AY 2019-20. This case pertains to prior assessment year.

iii.Manoj Jain v. Union of India [2022] 134 taxmann.com 173 (Calcutta)

Reassessment notices issued on or after 1-4-2021 should be within the new 3 years time-limit & should comply with the procedure in new section 148A even if it pertained to past assessment years. Explanations A(a)(ii)/A(b) to the Notifications dated 31st March, 2021 and 27th April, 2021 are ultra vires the Relaxation Act, 2020 and are therefore bad in law and null to the extent that the same extend the applicability of the "provisions of Section 148, Section 149 and Section 151 of the Act, as the case may be, as they stood as on the 31st March, 2021, before the commencement of the Finance Act, 2021" to the period beyond 31st March, 2021.

i.Darshan Enterprise v. Additional/ Joint/ Deputy/ Assistant Commissioner of Income -tax Income-tax Officer [2022] 134 taxmann.com 188 (Gujarat)

Where AO's final faceless assessment order is nothing but a mere exact reproduction of the draft assessment order without considering any submissions made by the assessee, the High Court should not hesitate to quash the assessment order as the same is non-est under section 144B(9). There is no question of relegating the assessee to alternative remedy in such cases. Section 144B(9) makes it clear that if the procedure laid down under Section 144B is not followed or complied with, the assessment would be rendered non-est.

ii.Government Of India Ministry Of Finance Department Of Revenue Central Board Of Direct Taxes (Cbdt) Income Tax Department, v. Karnataka State Souharda Federal Co-Operative Ltd. [2022] 134 taxmann.com 170 (Karnataka)

A comprehensive reading of the Preambles of the Karnataka Co-operative Societies Act, 1959 and the Karnataka Souharda Sahakari Act, 1997 vis-à-vis objects and reasons would indicate that both the Statutes support and promote Co-operative movement. No hyper technical view can be taken to exclude the entities registered under the Souharda Act as not falling under the definition of 'Co-operative Society' as defined in Section 2(19) of the Income-Tax Act,1961. Consequently, deduction under section 80P cannot be denied to the entities registered under the Souharda Act

Latest amendment in the month of January 2022 issued by MCA, RBI, SEBI, DIPP and others.

In this edition, we have tried to bring your notice the latest amendment that followed in the month of January 2022 issued by MCA, RBI, SEBI, DIPP and others.

Amendments issued by MCA

Companies (Registration Offices and Fees) Amendment Rules, 2022:

In exercise of the powers conferred by sections 396, 398, 399, 403 and 404 read with subsections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby make rules further to amend the Companies (Registration Offices and Fees) Rules, 2014. These rules may be called the Companies (Registration Offices and Fees) Amendment Rules, 2022 & they shall come into force with effect from 1st July 2022.

In the Companies (Registration Offices and Fees) Rules, 2014, in the Annexure, in item I (Fee for filing under section 403 of the Companies Act, 2013), for sub-item B, the given sub-item shall be substituted.

<u>To read more: https://www.mca.gov.in/bin/dms/getdocument?</u> mds=T%252F%252B384mFkSrHFx1liwRTnQ%253D%253D&type=open

The effective date of section 80 of Companies (Amendment) Act, 2017:

MCA notifies section 80 of Companies (Amendment) Act, 2017 shall come into force w.e.f 1st July 2022 which relates to amendment in Section 403 of Companies Act, 2013. Section 403 of Companies Act, 2013 deals with Fee for Filing, etc.

<u>To read more: https://www.mca.gov.in/bin/dms/getdocument?</u> mds=VrIKR5%252BwlgL7%252BmN7eJV%252Blg%253D%253D&type=open

Submission of IPR for the year 2021 till 31.01.2022:

In terms of Rule 18(1) (ii) of the CSS (conduct) Rules, 1964, every government servant is required to submit an annual immovable property return (IPR) giving full particulars of their immovable property inherited by them or held by them on lease or mortgage either in their own name or in the name of any member of their family or in the name of any other person. The IPR for the year 2021 as of 31.012.2021 submitted/received after 31.01.2022 will not be accepted and the guidelines for submitting the same are given.

<u>To read more: https://www.mca.gov.in/bin/dms/getdocument?</u> <u>mds=ZIhpuPYd0ITFeI94EVScmg%253D%253D&type=open</u>

Amendments issued by RBI

RBI issues regulations under the amended Factoring Regulation Act, 2011:

The government of India has recently amended the Factoring Regulation Act, 2011 ("the Act") which widens the scope of companies that can undertake factoring business. Further, the Act empowers the Reserve Bank of India to make regulations prescribing the manner of the grant of certificate of registration and for prescribing the manner of filing of assignment of receivables transactions by TReDS on behalf of the Factors & in the exercise of the powers conferred under the Act, the Bank has issued the following regulations:

a. Registration of Factors (Reserve Bank) Regulations, 2022

b. Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022

To read more: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=53131

Basel III Framework on Liquidity Standards:

With the objective to better align guidelines with the BCBS standard and enable banks to manage liquidity risk more effectively, it has been decided to increase the threshold limit for deposits and other extensions of funds made by non-financial Small Business Customers from 5crore to 7.5crore for the purpose of maintenance of Liquidity Coverage Ratio (LCR).

To read more: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12220&Mode=0

Indirect Tax Alert

GST Calendar –Compliances for the month of January'2022

Nature of Compliances	Due Date
GSTR-7 (Tax Deducted at Source 'TDS')	February 10,2022
GSTR-8 (Tax Collected at Source 'TCS')	February 10,2022
GSTR-1 January 2022	February 11,2022
IFF- Invoice furnishing facility (Availing QRMP)	February 13,2022
GSTR-6 January 2022 Input Service Distributor	February13,2022
GSTR-2B (Auto Generated Statement)	February 14,2022
GSTR-3B January 2022	February 20,2022
GSTR-5 January 2022 (Non-Resident Taxable Person)	February 20,2022
GSTR-5A January 2022 (OIDAR Service Provider)	February 20,2022
PMT-06 (who have opted for QRMP scheme)	February 25,2022

A. Budget Highlights "2022-2023"- GST Related Amendments

Input Tax Credit 'ITC'

- Removal of 'Provisional Credit' provisions u/s 41 of the Act: Section 41 has been substituted to remove allowance of 'provisional ITC', thereby now taxpayer can avail only self-assessed eligible ITC. Further it provides that the taxpayer needs to reverse ITC along with interest on supplies wherein tax has not been paid by the supplier (ITC may be re-availed upon payment of tax by supplier).
- Matching mechanism of ITC:

a) Section 42, 43 and 43A of the CGST Act to be omitted for doing away with two-way communication process of returns filing's i.e., online matching, reversal and reclaim of ITC of invoices vide GST Forms GSTR1, GSTR-2, GSTR-2A, GSTR-1A, GSTR-3.

b) Section 37 has been amended in order to remove the communication process of acceptance, rejection and keep pending of inward supply details (invoices).

- Extension of time limit to avail ITC: Time limit for claiming ITC has been extended till 30th November (from current September GST Return or filing of Annual Return whichever is earlier) following the end of the Financial Year to which such Invoice or Debit Note pertains.
- New restrictions / conditions for availing ITC: Amendment in Section 16(2) has been proposed for inserting a new clause '(ba)' which provides for additional restrictions as provided under the newly substituted Section 38 (summarized in next slide) of the CGST Act, 2017 'the Act'.

RNM Comments: Amendments have been carried out to tighten and restrict ITC availability, thereby controlling frauds and misuses of ITC vide fake invoicing mechanism. Relaxation has been provided in timelines for availing ITC. Present provisions has been done away of online matching of ITC.

• A new auto-generated statement with details of Inward Supplies and ITC (other than GSTR-2B): Proposal to substitute Section 38 in entirety.

It provides that taxpayer shall get an additional auto-generated statement (other than GSTR-2B) which shall contain details of ITC. The said statement shall be made available electronically to the recipients. Further, the new additional auto-generated statement shall be divided into two parts:

a. Details of inward supplies in respect of which ITC may be available to the recipient; and b. Details of supplies in respect of which ITC cannot be availed, whether wholly or partly, by the recipient, based on the details furnished by the supplier in its GSTR-1 enlisted as below:

i. Any registered person within such period of taking registration as may be prescribed; or

ii. Any registered person, who is a continuous defaulter in payment of tax (continuous period as may be prescribed); or

iii. Any registered person, who short pays the output for a period by such limit as may be prescribed; or

iv. Any registered person who claims excess ITC in accordance with Sec38(2)(a) by such limit as may be prescribed; or

v. Any registered person, who has defaulted in discharging his tax liability in accordance with Sec49(12) subject to such conditions and restrictions as may be prescribed; or

vi. Such other class of persons as may be prescribed.

RNM Comments: Section 16 and Section 38(2)(b) has been interlinked, thereby eliminating the argument of taxpayers i.e., substantive provision of Section 16 doesn't restrict availment of ITC. Going forward ITC shall not be allowed in the instances for e.g.: defaulter suppliers in terms of non-payment / short-payment of taxes, excess availment of ITC; newly registered suppliers; such class of persons as may be notified. The above judgment is contrary to the judgment of Hon'ble Madras HC in the matter of D.Y. Beathel, wherein it was held that buyer should not be made suffer on account of supplier's fault to deposit taxes to the ex-chequer.

GST Returns: GSTR-1

• Extension of time limit for rectification(s) in outward supplies GSTR-1:

Amendment in Section 37 of the Act has been proposed, to extend the time limit for rectification of errors in respect of details of outward supplies up to 30th November of the following Financial Year (currently the last date for rectification is a return for September of following Financial Year or filing of Annual Return whichever is earlier).

• Mandatory filing of GSTR1 of previous tax period: A new sub-section has been inserted '(4)' under Section 37 which provides for tax period-wise sequential filing of details of outward supplies, i.e., the registered person cannot file GSTR-1 with filing the GSTR-1 for the previous period.

GST Returns: GSTR-3B

- Extension of time limit for rectification(s) in GSTR-3B: Amendment in Section 39 of the Act has been proposed, to extend the time limit for rectification of errors and omissions up to 30th November of the following Financial Year (currently the last date for rectification is a return for the month of September of following Financial Year or filing of Annual Return whichever is earlier).
- Mandatory filing of GSTR1 before filing of GSTR-3B: Restriction has been inserted by amending Section 39 of the Act to enable mandatory filing of current tax period GSTR-1 as a condition before filing of current tax period GSTR-3B (Presently, the restriction is limited to mandatory filing of previous tax period GSTR-3B).

RNM Comments: Proposed extension in time lines shall provide relief to many taxpayers and enable them for rectification of any errors or omissions. Further, few provisions has been proposed to tighten compliance's of the GST returns.

Return of tax

- **Refund of Electronic Cash Ledger Balance:** A provision has been inserted which provides that refund claim of any balance in the E-Cash Ledger to be made in the prescribed form and manner.
- Extension of time limit for International Organizations: Time limit has been increased for refund claim on inward supplies from 6 months from the last day of the quarter in which inward supplies were received, to 2 years from the last day of such quarter.

RNM Comments: Presently, the time period to claim refunds for international organizations is 6 months.

• Adjustment of refunds vis-à-vis tax demand: An amendment has been proposed in Section 54(10) of the Act, wherein scope has been widened for recovery or withholding amount from all types of refunds vis-à-vis adjustment against tax demands (if any).

RNM Comments: Presently, only refund of unutilized ITC was allowed for adjustment or withholding vis-à-vis tax demands.

• Clarification w.r.t. 'relevant date' for filing of refund claims for SEZs: It has been clarified by amending Section 54 of the Act, that the relevant date for filing refund claim in respect of supplies made to a SEZs Developer / SEZ unit shall be 2 years from the due date of furnishing of return in respect of such supplies.

RNM Comments: Presently, the said limit of 2 years is from the date of payment of tax. Further, the retrospective effect of aforesaid clarification is yet to be clarified by authorities.



Tax Calendar

7 February 2022 -

Due date for deposit of Tax deducted/collected for the month of January, 2022. However, all the sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

14 February 2022 -

Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of December, 2021

14 February 2022 -

Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of December, 2021

14 February 2022 -

Due date for issue of TDS Certificate for tax deducted under section 194M in the month of December, 2021

15 February 2022 -

Due date for filing of return of income for the assessment year 2021-22 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply.

The due date for furnishing of return of income for Assessment Year 2021-22 has been extended to February 28, 2022 vide Circular no. 17/2021, dated 09-09-2021

The due date for filing of return of income has been further extended to March 15, 2022 vide Circular No. 01/2022, dated 11-01-2022

15 February 2022 -

Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of January, 2022 has been paid without the production of a challan

15 February 2022 -

Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2021.

15 February 2022 -

Due date for filing of audit report under section 44AB for the assessment year 2021-22 in the case of a corporate-assessee or non-corporate assessee (who was required to submit his/its return of income on October 31, 2021)

The due date for filing of audit report for Assessment Year 2021-22 has been extended vide Circular no. 17/2021, dated 09-09-2021

The due date for filing audit report has been further extended to February 15, 2022 vide Circular No. 01/2022, dated 11-01-2022

15 February 2022 -

Audit report under section 44AB for the assessment year 2021-22 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E

The due date for filing of audit report for Assessment Year 2021-22 has been extended vide Circular no. 17/2021, dated 09-09-2021

The due date for filing audit report has been further extended to February 15, 2022 vide Circular No. 01/2022, dated 11-01-2022

28 February 2022 -

Return of income for the assessment year 2021-22 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)

The due date for furnishing of return of income for Assessment Year 2021-22 has been extended to February 28, 2022 vide Circular no. 17/2021, dated 09-09-2021

The due date for filing of return of income has been further extended to March 15, 2022 vide Circular No. 01/2022, dated 11-01-2022



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