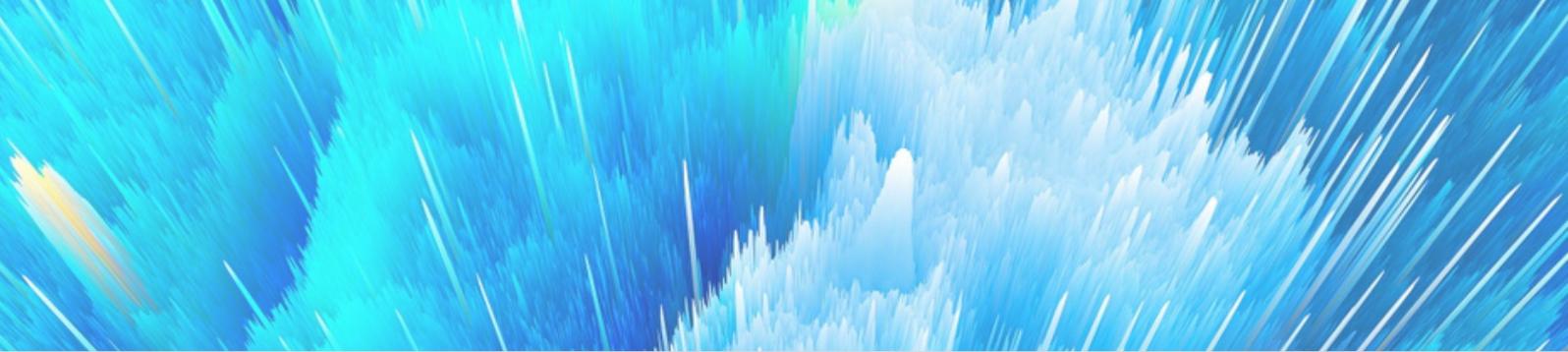


RNM ALERT
AUGUST
NEWSLETTER

VOL NO 175



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EDITORIAL

Dear Readers

During the month of August 2023, Team RNM conducted a Town Hall where Partners representing each department and Branch interacted with the team other than the senior management. Our CEO, Raghu Marwah as well as Manoj Gupta, Audit Partner visited Bangalore office to interact with various clients and follow up with various leads.

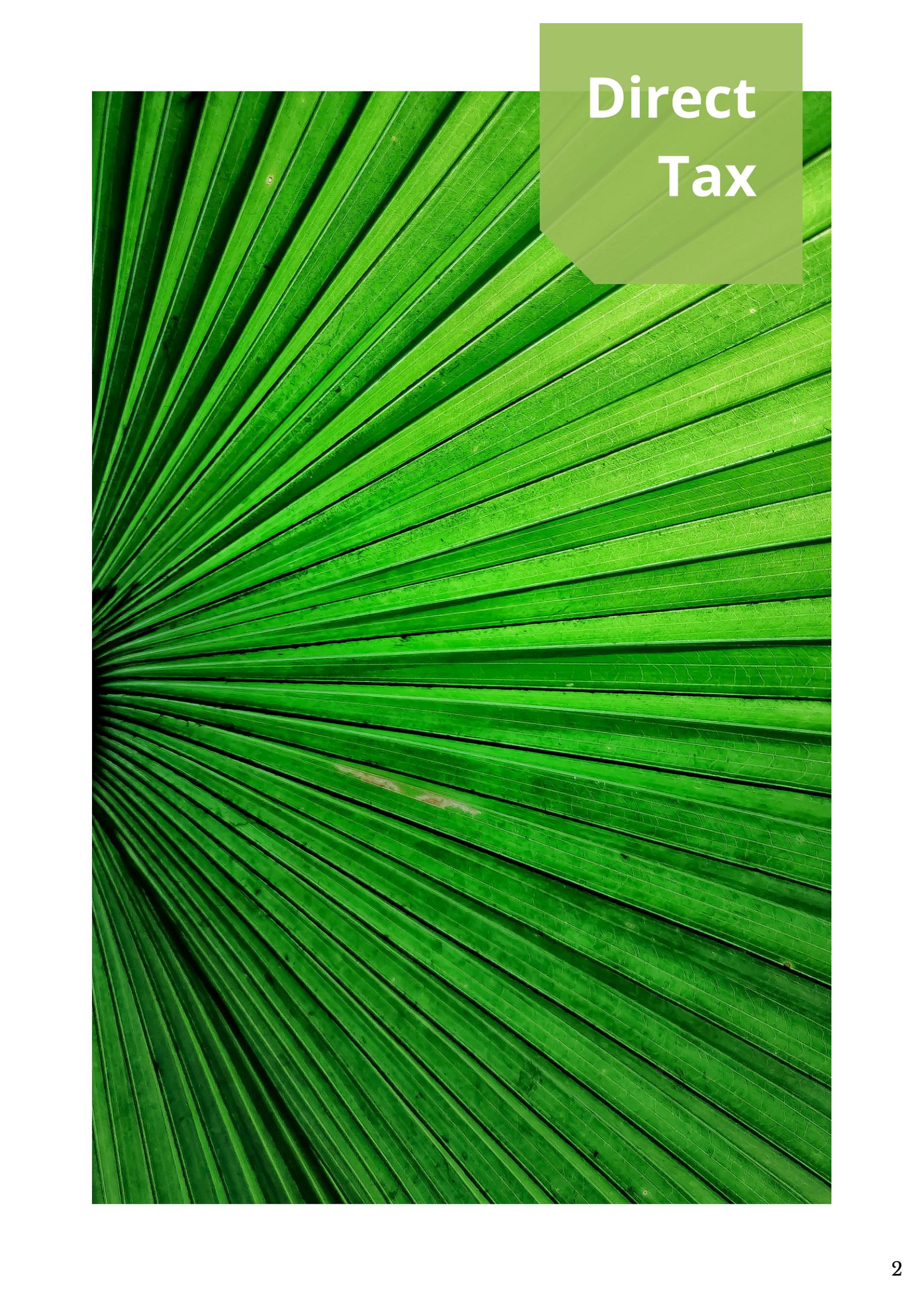
The Digital Personal Data Protection ('DPDP') Act 2023 has been notified into law w.e.f. 11 August 2023 and now forms the basis of a strong data privacy framework in India. The Act prohibits the tracking, behavioral monitoring and targeted advertising directed at children. Most organizations would now need to evaluate current maturity with the DPDP Act requirements. Heavy penalties have been provided for in the law for errant organisations.

On the Direct tax front, the CBDT has notified new perquisite rates effective from September 1, 2023 for calculation of rent free accommodation provided by employer. This is a welcome step since it is likely to reduce the tax burden on salaried class.

On the Assurance front, the ICAI has introduced Forensic Accounting and Investigation Standard (FAIS), 2023. The said FAIS is mandatory for every FAI engagement effective from July 1, 2023. The said FAI engagement is a fact finding exercise where no opinion is offered and is distinct from Forensic Audit where an independent opinion is expressed.

We would like to take this opportunity of wishing all our readers a Happy Janamashtami festival. We on this day not only mark the birth of Lord Krishna with prayer but also remember the innocence of children and the purity of love.

U N Marwah
Chairman - RNM India



Direct Tax

1. CBDT NEW DELHI NOTIFICATION NO 61/2023, Dated: August 16, 2023

The CBDT vide Notification No. 61/2023 inserted rule 11UACA; Computation of income chargeable to tax under section 56 (2) (xiii). —where any person receives at any time during any previous year any sum under a life insurance policy, then, the income chargeable to tax under the said clause during the previous year in which such sum is received shall be computed as per rule 11UACA,

2. CBDT NEW DELHI NOTIFICATION NO 65/2023, Dated: August 18, 2023

The CBDT vide Notification No. 65/2023 amended the calculation of perquisites value in the nature of rent free accommodation provided by the employer to employee, for the purpose of section 17(2).

3. CBDT NEW DELHI NOTIFICATION NO 73/2023, Dated: August 30, 2023

The CBDT vide Notification No. 73/2023 inserted rule 134; wherein the CBDT notifies Form -71 to allow TDS credit in respect of income disclosed in ITR filed in earlier years, Applicable w.e.f. 01.10.2023.

4. NOTIFICATION G.S.R. 595(E) [NO. 58/2023/F.NO. 370142/26/2023-TPL], Dated 09-Aug-2023

Vide this notification; the CBDT extends the applicability of TP Safe Harbour Rules till AY 2023-24.

Important Judicial Precedents

1. Whether reopening initiated on mere change of opinion and without any tangible material is impermissible - YES: HC

[ITA No. 546/2019 PCIT, CENTRAL-11 Vs. DSC LTD _ Delhi HC]

The reasons recorded by the AO should not only have made such an assertion but should have also indicated the material found in the search operation carried out on the DSC Group of Companies, which gave reasons to believe that income chargeable to tax had escaped assessment. Thus, the argument that the search action spoke for itself fails to recognize that the AO had to apply his mind to the material available on record, which at the relevant point in time, would have impelled him to form a belief that because of the failure on the part of the assessee to disclose, fully and truly, all material facts necessary for assessment, income otherwise chargeable to tax had escaped assessment. It appears that no such exercise was carried out by the AO at the relevant point in time. It is only after reassessment had been triggered, that information was sought by the AO concerning the purchase made by the assessee from JMD. [Revenue appeal dismissed]

2. Reassessment notice can't be quashed merely because a piece of information in it wasn't correct: HC

[[2023] 152 taxmann.com 399 (Delhi HC) _Ramakant vs. Income-tax Officer]

Where a notice under section 148 was issued on grounds that assessee had not filed its income-tax return although he had deposited certain amount of cash in bank account, in view of facts that even though assessee had informed Assessing Officer that a return had been filed, however, he did not dispute fact that he had deposited cash amount in bank account which required enquiry and investigation, impugned reopening was to be upheld [In favour of revenue]

3. No TDS requirement in absence of material to suggest that commission paid to overseas agents was chargeable to tax: HC

[2023] 153 taxmann.com 128 (Delhi HC)_PCIT vs. Maharani Enterprises

Where assessee paid export commission to non-resident, who did not have any permanent establishment in India; had not carried on any business within taxable territory in India and did not have any business connection in India and also, there was no allegation that payments made were not bona fide expenses, therefore, assessee had no obligation to deduct TDS [In favour of assessee]

4. Whether valuation report would only be relevant, when the Valuer has done the valuation in the manner prescribed in 11U and 11UA, because it is in Rule 11 such a condition has been prescribed - YES: ITAT

[ITA No. 7353/DEL/2019_AY: 2016-17 _ QUICK TECHNOLOGIES PVT LTD Vs. ACIT CIRCLE - 20(2) NEW DELHI]

We have given thoughtful consideration to the orders of the authorities below. There is no dispute that the assessee has supported its valuation by a valuer's report as per the relevant provisions of the Act. It is also true that the lower authorities have not pointed out any error or infirmity or defect in the said valuation report. The said valuation report has been rejected only because there were differences between actuals and projection done by the valuer. Thus, we do not find any merit in the addition made by AO. The findings of the CITA are set aside and AO is directed to delete the impugned addition.

5. Whether stay on demand notice merits being allowed where the assessee is found to not be liable to pre-deposit 25% of the tax demand raised, more so where appeal filed as per provisions of the Income Tax Act is pending disposal - YES: HC

[2023-TIOL-1015-HC-MAD-IT RANGASAMY ENGINEERS PVT LTD Vs. ACIT & DCIT,]

Since prima facie this Court is of the opinion the petitioner is not liable, consequently the petitioner is not liable to pay the 25% demand, more so when the statutory appeal is pending before the appellate authority. However, it is made clear that only for the limited extent to decide the payment of 25% demand, this Court is of the considered opinion that the petitioner is not liable to submit seller's stock register. The appellate authority shall consider the issue on its own merits, uninfluenced by the observation of this order. Therefore, this Court is inclined to grant stay of the demand notice alone. It is made clear that it will not affect the rights of the petitioner as well as the department to consider the issue on own merits. The appeal shall be considered within a period of six months from the date of receipt of a copy of the order.

6. Whether therefore notice proposing penalty, issued beyond this limitation period, is time barred and penalty imposed is invalidated - YES: HC [2023-TIOL-1017-HC-DEL-IT _ITA 408/2023 PCIT (TDS)-1 Vs. HINDUSTAN COCA COLA BEVERAGES PVT LTD]

In this case, the proposal, as noticed above, for commencing of penalty proceedings was submitted by the JCIT on 27.03.2019. The record shows that the order under Section 271(1)(c) of the Act was passed only on 31.10.2019, which is a date well beyond six months, that expired on 30.09.2019. The word used in the provision is "initiated" which according to us, is an act which would get triggered on the date when the proposal is made. This rationale ties in with our view, as noted hereinabove, that penalty proceedings should be initiated within a reasonable period. No substantial question of law arises for consideration.

7. [2023] 154 taxmann.com 87 (Gujarat-HC) Shree Ganesh Intermediary (P.) Ltd. Vs. National Faceless Assessment Centre(NFAC)

Where Assessing Officer issued show cause notice-cum-draft assessment order directing assessee to comply with same within next day and assessee filed a response to show-cause notice taking various contentions, however, without considering these objections, revenue on very next day completed assessment proceedings exparte under section 144 read with section 263, therefore, assessment proceedings were to be quashed and set aside and matter was to be remitted to Assessing Officer so as to enable assessee to be heard in light of detailed submissions made by assessee [Matter remanded]

8. [2023] 153 taxmann.com 566 (Bangalore - Trib.) Employees Provident Fund Organisation Vs. DCIT, TDS, Circle-1(1)

Where assessee an autonomous body construed to be an executive limb of Central Government collected license fee in form of House Rent Allowance from its employees against unfurnished accommodation, it could not be held to be an assessee in default for non-deduction of TDS for reason that it was an organization under a Statute enacted by legislature, therefore, provisions of TDS will not apply under such circumstances

Indirect Tax

GST Calendar –Compliances for the month of August 2023.

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

The Supreme Court (SC) has issued a divided decision regarding the arbitrary withdrawal of exemption from sales tax.

Summary:

The division bench of the Supreme Court (SC) has delivered a split judgment concerning the issue of whether an appellant is eligible for a sales tax exemption based on an alteration to the WBST Act that revoked the prior exemption granted. Justice M.R. Shah's viewpoint is that it's an established legal principle that no individual can insist on the exemption as an absolute entitlement. Conversely, Justice Murari's standpoint is that the law cannot capriciously take away something bestowed by it. He further argued that the amendment made in this instance didn't clearly demonstrate being in the interest of the public. Justice Murari also emphasized that a mere assertion of policy change isn't sufficient to meet the government's burden of proof. As a result, the SC concluded that the appellant should rightfully receive the benefit of exemption for the period originally assured by the Revenue.

Background:

- The appellant, M/s. K.B. Tea Product Pvt. Ltd., established new small-scale industrial units for conducting the business of 'manufacturing blended tea.' During this period, they enjoyed the privilege of being exempted from paying sales tax.
- Under the provisions of the 1999 West Bengal Incentive Scheme, these recently established industrial units were granted an exemption from the obligation to pay sales tax for a specific period.
- Additionally, the appellant obtained an eligibility certificate from the Sales Tax department which remained valid for seven years starting from the date of the initial sale of their manufactured product.
- Subsequently, the definition of 'manufacture' underwent an amendment via the West Bengal Finance Act of 2001, leading to the exclusion of the term 'blending of tea.' As a result, the exemption from sales tax payment previously granted to the appellants was terminated, necessitating a revision of their eligibility certificate. Consequently, the exemption was revoked, causing the appellants to no longer retain their status as manufacturers.
- This particular action or order was initially contested before the Tribunal and subsequently brought before the High Court (HC) for review. The Tribunal dismissed the application, a decision which the HC upheld in the challenged judgment and order.
- Dissatisfied with the ruling issued by the High Court (HC), the appellants lodged an appeal with the Supreme Court (SC).

Matters Presented to the Supreme Court

- Whether the appellants possess an established entitlement to demand exemption from sales tax payment under the WBST Act, given that this entitlement was acquired by the appellants prior to the amendment introduced under Section 2(17) of the WBST Act.
- Whether the principle of legitimate expectation is relevant in this current scenario, considering that the appellants established their industrial units based on the promise of a tax exemption provided by the government.

Rulings

- Exemption cannot be asserted as an absolute entitlement: Exemption is contingent upon fulfilling the prerequisites for qualifying for the exemption, and the state holds the authority to revoke it. The decision to grant, maintain, or withdraw exemption rests within the jurisdiction of the state government and falls under the scope of policy-making. In accordance with established legal principles, unless the withdrawal is manifestly arbitrary, the court tends to avoid intervening in such policy determinations.
- Not a scenario of 'vested right,' but rather of an 'existing right': The High Court (HC) appropriately determined that this situation doesn't pertain to a 'vested right,' but rather to an 'existing right.' Against established legal doctrine, promissory estoppel cannot be invoked against statutory provisions.
- Exemption hinges on meeting conditions: The term 'manufacture' is of utmost significance and constitutes an essential precondition for claiming exemption. Consequently, if a dealer ceases to be classified as a manufacturer, they lose the entitlement to exemption. Hence, following the contested modification which excludes 'tea blending' from the definition of 'manufacture,' the appellant will not qualify for exemption from sales tax payment.
- Doctrine of legitimate expectation explained: The doctrine of legitimate expectation, stemming from the principle of the rule of law, is based on the notions of fairness and consistency within the decision-making processes of public authorities. When a public authority generates a legitimate expectation of a specific outcome, it is obligated to take that expectation into account when making decisions that affect the interests of individuals or groups concerned.
- Failing to do so allows the affected party to challenge the decision and seek redress. The Supreme Court (SC) referenced the case of M.P. Oil Extraction & Anr., emphasizing that this doctrine functions within the realm of public law and constitutes a substantive and enforceable right dependent on the circumstances of the case.
- Guiding principle of non-arbitrariness: Citing the case of Food Corporation of India vs. Kamdhenu Cattle Feed Industries, the SC highlighted the duty of public authorities to act reasonably, affording everyone a legitimate expectation. It stressed the importance of ensuring that state actions adhere to the principle of non-arbitrariness.
- Doctrine's limitations: Drawing from the case of MRF Ltd. Kottayam, the SC pointed out that public interest takes precedence over a legitimate expectation. It noted that this doctrine becomes inapplicable when a public authority rescinds the expectation due to a change in public policy necessitated by public interest. Furthermore, the SC underlined that no right can be claimed based on legitimate expectation if it contradicts statutory provisions enacted in the public interest.

SC's decision to allow civil appeals:

Given the lack of sufficient justification from the government for introducing the amendment, the government must precisely clarify the policy change and provide reasons for how it aligns with public policy and welfare. Consequently, the Justice directed that the benefits of the original amendment should extend to the appellant until the expiration of the initially stipulated benefit period.

Legal Dispute: Modern Insecticides Ltd vs. Commissioner, CGST & Anr.

FACTS

The respondent conducted a search at the petitioner's premises, detaining their Chartered Accountant and Director until 1:00 am during the second search. They were released upon depositing Rs. 2.15 crores, with Rs. 34.04 lakhs from the Electronic Credit Ledger and Rs. 5.10 lakhs from the Electronic Cash Ledger, under pressure. However, essential documents and gadgets required for filing returns were not provided. A petition was subsequently filed seeking a refund of the deposited amount of Rs. 2.54 crores.

RULING

Drawing on the Vallabh Textile's case judgment, it's crucial to emphasize that the amount deposited during the search cannot be construed as a voluntary act on the part of the petitioner. This is a significant legal distinction because voluntary payments typically indicate acknowledgment of liability, whereas deposits made during a search are often made under duress or pressure. Therefore, the reliance on the Vallabh Textile's case sets a precedent that such deposits should not be automatically treated as admissions of guilt or liabilities.

Furthermore, it's important to note that as of the present date, no proceedings under Section 74(1) of the CGST Act have been initiated against the petitioner. This is significant because according to Rule 142(1A) of the CGST Rules, the department is not authorized to issue Form GST DRC-01A, which is used to demand payment of tax, interest, and penalties, until such proceedings have been formally initiated. In essence, the absence of formal proceedings means that the department lacks the legal basis to demand payment from the petitioner.

In addition, the passage of two years without the issuance of any formal notice or initiation of proceedings raises concerns about the undue retention of the tax deposit by the department. The principle of justice and fairness dictates that the department should not indefinitely withhold these funds pending future adjudication, which could potentially take even more time. This situation creates financial and operational uncertainties for the petitioner. Consequently, the respondents have been requested to promptly return the deposited amount of Rs. 2.54 crores to the petitioner(s), coupled with simple interest at the rate of 6% per annum. This interest is meant to compensate the petitioner for the opportunity cost and any financial losses incurred due to the prolonged retention of their funds by the tax authorities until the payment is made. The request for interest underscores the importance of timely and fair resolution in taxation matters, ensuring that taxpayers are not unduly burdened by delays and uncertainties in the adjudication process.

Internal Audit

AUDIT DOCUMENTATION

Audit Documentation, also known as Audit Working Paper, is the record of procedures auditors perform, relevant audit evidence obtained during their audit work and the conclusion they form, based on the Audit Evidence gathered. Audit documentation can be stored in hard copy or in soft copy.

Audit Documentation can serve many purposes to auditors including being as evidence of their work and conclusion, helping team members in performing audit work including supervision and review, etc.

Requirement in Audit Documentation:

Audit documentation includes:

- The nature of data or information being prepared;
- Name of the auditor preparing audit working paper;
- The audit procedures performed as per SA guidelines and other legal and regulatory requirements;
- Sufficient information to enable an experienced auditor to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached;
- Who performed the work and the date on which such work was completed as well as the person who reviewed the work and the date of such review.

Purpose of Audit Documentation:

- It provides audit evidence which forms basis of conclusion which the auditor reaches.
- It provides evidence showing that audit work was properly planned and performed in accordance with SA and other legal and regulatory requirements.
- It assists audit team members to plan and perform their audit work in the engagement.
- It assists audit team members who are responsible for supervision to properly direct, supervise and review audit work, both hot and cold review.
- It enables audit team members to be accountable for their audit work.
- It allows the record of matters of continuing significance to be retained.
- It enables the conduct of quality control reviews and inspections (both internal and external) in accordance with SQC -1.

Further, the auditor shall document discussions of significant matters with management, those charged with governance, and others, including the nature of the significant matters discussed and when and with whom the discussions took place.

Further, Judging the significance of a matter requires an objective analysis of the facts and circumstances of each case.

Assembly of the Final Audit File:

SQC 1 requires firms to establish policies and procedures for the timely completion of the assembly of audit files. An appropriate time limit within which to complete the assembly of the final audit file should ordinarily be not more than 60 days after the date of the auditor's report.

Conclusion:

Audit documentation provides evidence that the audit complies with SAs. However, it is neither necessary nor practicable for the auditor to document every matter considered, or professional judgment made, in an audit. The requirements of the SAs are designed to enable the auditor to achieve the objectives specified in the SAs, and thereby the overall objectives of the auditor. Accordingly, other than in exceptional circumstances, the SAs call for compliance with each requirement that is relevant in the circumstances of the audit.

Corporate Finance

Qatar Investment Authority Pumps \$1 Bn Into RIL's Retail Arm

Qatar's sovereign wealth fund, the Qatar Investment Authority has invested INR 8,278 crore (around \$1 billion) for a 0.99% stake in oil-to-telecom conglomerate Reliance Industries' retail arm. The deal values Reliance Retail Ventures at a little over \$100 billion. To be sure, the current pre-money valuation after QIA's investment is a tad higher than the \$92-96 billion derived by company-appointed valuers EY and BDO. The deal comes about three years after the Public Investment Fund (PIF) of Saudi Arabia said it will invest INR 9,555 crore (\$1.3 billion) in Reliance Retail Ventures Ltd. At the time, it had a pre-money equity value of INR 4.58 trillion (around \$62.4 billion). The pre-money valuation makes Reliance Retail Ventures the conglomerate's second company to be valued at over \$100 billion and the biggest retailer in the country.

(Source: VC Circle, 23rd August 2023)

Private Equity

Temasek To Invest \$145 Mn In Mahindra & Mahindra's Passenger EV Unit

Singapore's sovereign wealth fund Temasek has agreed to invest up to INR 1,200 crore (around \$145 million) in Mahindra & Mahindra's electric four-wheeler vehicle unit, that was set up last year in October, as the automaker ramps up its focus on the segment. Temasek, through its Jongsong Investments Pte. Ltd, may buy a stake between 1.49-2.97% as a part of the deal, valuing Mahindra Electric Automobile Ltd (MEAL) at about INR 80,580 crore (\$9.8 billion).

(Source: VC Circle, 3rd August 2023)

Beams Fintech Fund Backs Credgenics As New Investor In \$50 Mn Round

Debt collection-focused software-as-a-service startup has raised Series B funding of \$50 million (around INR 414 crore) led by existing investors Westbridge Capital, Accel and Tanglin Ventures, along with Beams Fintech Fund joining the cap table. The new round has valued the New Delhi-based startup at \$340 million.

(Source: VC Circle, 9th August 2023)

Kuwait Investment Firm Asiya Capital Wraps Up Over \$100 Mn India Hotel Deal

Asiya Capital Investments, a specialist investment firm based out of Kuwait that chases deals across private equity and real estate asset classes in emerging Asian economies, has picked a little over 30% stake in an Indian hospitality firm. The investment firm, which has built exposure to gas distribution and hospitality assets in India, has picked up a minority stake in SAMHI Hotels Ltd.

(Source: VC Circle, 14th August 2023)

Zepto Raises \$200 Mn To Become First India Unicorn Of 2023

Online grocery delivery startup Zepto has become the latest to join the growing list of Indian unicorns as it raised \$200 million (INR 1,652 crore) as part of its Series E funding round led by global asset manager StepStone Group.

The round, which valued Zepto at \$1.4 billion, also saw investments from Goodwater Capital as well as existing investors like Nexus Venture Partners, Glade Brook Capital and Lachy Groom, among others.

(Source: VC Circle, 25th August 2023)

Nexus-Backed Apollo.io Amasses \$100 Mn To Enter Unicorn Club

Apollo.io, a business-to-business (B2B) sales and intelligence and engagement platform has secured \$100 million in a Series D funding exercise at a valuation of \$1.6 billion, making it one of the first sales-tech unicorns minted this year. New investor Bain Capital Ventures, the venture capital arm of the namesake private equity giant, and existing investors Sequoia Capital, Tribe Capital and Nexus Venture Partners participated in this round. With the latest funding, the US-based company has raised close to \$250 million so far.

(Source: VC Circle, 29th August 2023)

Venture Capital

The Fuel Delivery Pockets \$2 Mn In Pre-Series A Funding

The Fuel Delivery has raised \$2 million (around INR 16.4 crore) in its pre-Series A funding round from Singapore's Drake Trade and Investment. The startup plans to use the funds to enhance and upgrade its Internet of Things (IoT)-enabled and tech-based platform. It will also deploy the capital to expand into new geographical territories.

(Source: VC Circle, 1st August 2023)

Nexxio Gets \$375K In Pre-Seed Funding

Bangalore-based Nexxio has raised \$375,000 (nearly INR 3 crore) in its pre-seed funding round led by Malpani Ventures. The round also saw the participation of angel investors, including Aniketh Jain, Ashish Agarwal, Sumit Agarwal, Shubham Agrawal, and Malay Krishna.

(Source: VC Circle, 1st August 2023)

Emtech Snags \$4 Mn From Matrix Partners, Others

Fintech startup Emtech Solutions Inc has secured \$4 million (INR 33.13 crore) in a funding round led by Matrix Partners India, along with participation from global investors like BTN, VestedWorld, Equity Alliance and Lofty Inc. Emtech will use the fresh funds to fuel development of its infrastructure tools for central banks and fintech companies.

(Source: VC Circle, 4th August 2023)

What's Up Wellness Raise Funding In Early Stage Round

Digital wellness brand What's Up Wellness has raised \$1.7 million (INR 14.40 crore) in a seed funding round led by Unilever Ventures, the venture capital arm of FMCG major Unilever. The round also saw participation from What's Up Wellness' existing angel investors.

(Source: VC Circle, 9th August 2023)

All Is Well Raises Early Stage Funding From Angels

Artificial intelligence (AI)-based fitness platform All Is Well has secured \$250,000 (INR 2.07 crore) in a funding round from a host of investors including Bharat Founders Fund and angel investors like Shantanu Deshpande (Bombay Shaving Company), Abhishek Banerjee (Bollywood Actor), Pradeep Parameswaran (Uber Mobility), Vijay Aggarwal (Ex-BharatPe & Blinkit), Aarti Gill (Oziva) and Sumit Jain (Graphy) among others.

(Source: VC Circle, 9th August 2023)

Mergers & Acquisitions

Adani-Owned Ambuja Cements To Buy Majority Stake In Sanghi Industries

Ambuja Cements Ltd (ACL), a flagship Adani Group company announced the acquisition of Sanghi Industries Ltd (SIL) at an enterprise value of ₹5,000 crore. ACL will acquire 56.74 per cent shares of SIL from its existing promoter group, Ravi Sanghi & family. The acquisition will be fully funded through internal accruals.

(Source: VC Circle, 3rd August 2023)

Svatantra Microfin To Buy Sachin Bansal's Chaitanya For \$180 Mn

Ananya Birla-led Svatantra Microfin Pvt Ltd has agreed to acquire Chaitanya India Fin Credit Pvt Ltd, a wholly owned subsidiary of Flipkart co-founder Sachin Bansal's Navi Group, for INR 1,479 crore (around \$179.6 million).

(Source: VC Circle, 8th August 2023)

Temasek-Backed UST Takes Over MobileComm

UST, an IT solutions company, has acquired telecom engineering firm MobileComm for an undisclosed sum. The acquisition of Dallas-based Mobilecomm and the integration of its over 1300 employees aim to strengthen UST's telecommunications practice and position the company to continue building, said a statement.

(Source: VC Circle, 29th August 2023)

InMobi Snaps Up Consent Management Firm Quantcast

Edtech unicorn Advertising technology platform InMobi has acquired consent management platform Quantcast Choice for an undisclosed sum. With this buyout, InMobi plans to integrate Quantcast within its publisher software development kit (SDK) offering, delivering improved data governance, easy consent management and improved privacy control, thereby ensuring full compliance with global privacy regulations.

(Source: VC Circle, 16th August 2023)

Subway Sold To US PE Firm Roark Capital

Subway would sell itself to private equity Roark Capital for \$9.55 billion after agreeing to attach conditions to some of the windfall the two families that own it will get, ending a long-drawn auction that saw several competing bids. These conditions, known as an earn-out, defer payment on part of the deal consideration.

(Source: VC Circle, 24th August 2023)



Transaction & Regulatory Advisory Services

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

SEBI

Reduction of timeline for listing of shares in Public Issue from existing T+6 days to T+3 days

It has been decided to reduce the time taken for listing of specified securities after the closure of public issue to 3 working days (T+3 days) as against the present requirement of 6working days (T+6 days).

To read more:

https://www.sebi.gov.in/legal/circulars/aug-2023/reduction-of-timeline-for-listing-of-shares-in-public-issue-from-existing-t-6-days-to-t-3-days_75122.html

RBI

RBI Launches उद्गम - UDGAM - Centralized Web Portal for Searching Unclaimed Deposits

The portal has been developed by RBI for use by members of public to facilitate and make it easier for them to search their unclaimed deposits across multiple banks at one place.

To Read More:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=56216

MCA

Condonation of Delay in filing of Form LLP -3 and LLP Form-4 under section 67 of the Limited Liability Partnership Act, 2008

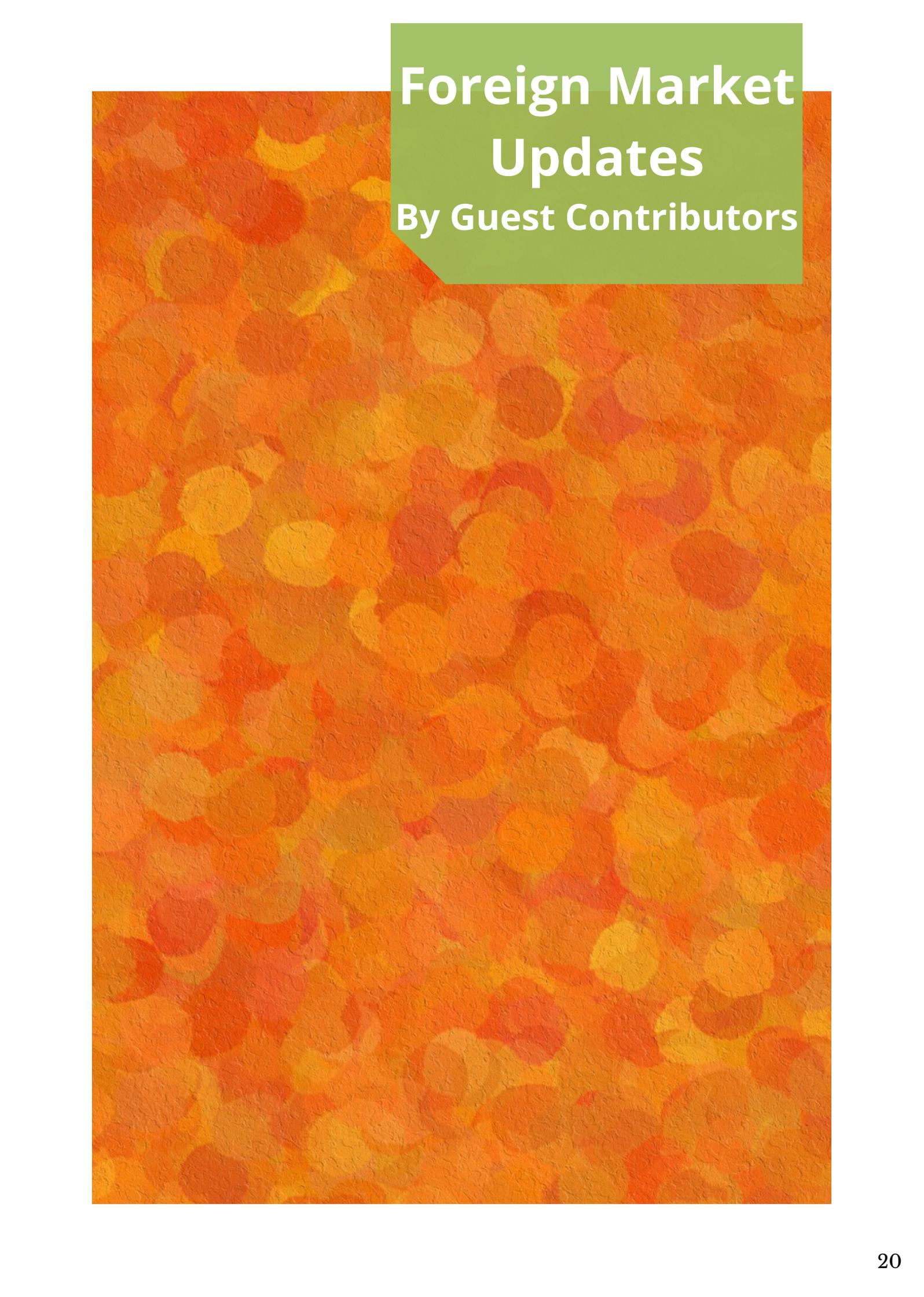
To address the difficulties faced by the LLPs & to promote ease of doing business , the ministry has granted one time relaxation in additional fees to those LLPs who could not file FORM -3, FORM-4 and FORM-11 within due dates on the V3 portal .

To Read More:

<https://www.mca.gov.in/bin/dms/getdocument?mds=Zt6foWsl%252BABAbU7Pid9NGg%253D%253D&type=open>

MCA-Important Update (August 01, 2023)

- The Ministry of Corporate Affairs is launching Refund form on V3 portal effective on 04th August 2023. Refund form on V2 portal will continue for availing refund for forms filed in V2.
- VPD (View Public Document) V3 Beta version is available under Document Services from 7pm to 10pm for testing purposes only and forms prior to May 2023 are available for download.



Foreign Market Updates

By Guest Contributors

Commercial Litigation in Hong Kong: What you need to know?

As an international financial centre, Hong Kong sees a large volume of cross-border transactions, and as a result, cross-border commercial disputes inevitably occur. Given Hong Kong's proximity to (and close connection with) mainland China, the Courts of the HKSAR and legal professionals have significant experience in resolving cross-border commercial disputes involving mainland elements.

Hong Kong has therefore been supported by the Central Government to establish itself as a centre for international legal and dispute resolution services in the Asia Pacific Region.

Unique features of Hong Kong's legal system

Hong Kong is a common law jurisdiction. For historical reasons, English precedents before 1997 still have a binding effect in Hong Kong, unless they have been overruled by other decisions in the Courts of the HKSAR.

Article 85 of the Basic Law also permits the Courts of the HKSAR to refer to precedents in other common law jurisdictions.

Chinese and English are the official languages in Hong Kong. Although parties can choose to litigate in either language, bilingual judges are nevertheless limited. Given the increase in cases involving evidence in Chinese, parties may have to pay translation costs in order to avoid the waiting time by requesting a bilingual judge.

Also akin to the English system, the profession is still divided into solicitors and barristers who have different skill sets and roles to play in litigation. There are also Hong Kong lawyers qualified to practise PRC law for a limited scope of work in the Greater Bay Area.

Stages in civil proceedings

Like most other common law jurisdictions, civil litigation in Hong Kong typically involves the following stages:

- Pleadings
- Discovery
- Exchange of Witness Statements
- Trial

Jury trials are also available for defamation cases. During the discovery phase, parties to the litigation must disclose all relevant documents in their possession, power, or custody, regardless of whether the documents may prejudice their case or not. Given this obligation, parties are subject to an implied undertaking not to use the documents disclosed for purposes other than legal action.

Common tools in commercial litigations in aid of foreign proceedings

Under Hong Kong law, courts have the power to grant stand-alone interim measures to assist foreign litigation or arbitration, before or after foreign proceedings have commenced.

Common tools include:

- (a) Injunctions prohibiting the intended defendants from dealing with, or disposing of, assets up to the claimed amount, or specific assets over which the plaintiffs allege to have a proprietary claim, in Hong Kong or worldwide; and
- (b) Norwich Pharmacal Orders, which compel a third party to disclose information and documents.

Insolvency and bankruptcy

Insolvency and bankruptcy proceedings are collective proceedings. Unlike other civil disputes, these proceedings not only involve parties in the proceedings, but also other stakeholders who are interested in the estate of the bankrupt, or insolvent companies. They have their own procedural rules, and civil procedural rules do not directly apply.

The principle of modified universalism, which aims to have unitary bankruptcy proceedings in the court of the domicile of the bankrupt or insolvent entities receive worldwide recognition at the same time as taking into consideration local law and public policy, has been recognised and applied in Hong Kong.

While the law is still developing, the Hong Kong Courts are, in general, willing to provide assistance and recognise the appointment of liquidators in other jurisdictions, but would also look into the effect on local creditors if such appointment is recognised or assistance is provided.

The mainland and the HKSAR have signed an arrangement for mutual recognition and assistance to bankruptcy (insolvency) proceedings between the Courts of the mainland and the HKSAR, which demonstrates the efficiency and power of “One Country, Two Systems”, making it even more convenient for the two jurisdictions to work together and achieve modified universalism in insolvency proceedings.

Arbitration-friendly attitude

Hong Kong supports arbitration, and the UNCITRAL Model Laws have been adopted and formed part of the Arbitration Ordinance.

If the courts find an arbitration agreement governing the disputes of the parties, the legal action will likely be stayed at the request of any party.

In terms of enforcement of arbitral awards, a simple and easy regime has been developed, and there are only very limited circumstances for parties to set aside arbitral awards.

Legal costs

In general, the losing party has to pay the costs incurred by the winning party. There are different scales for the court to assess the amount to be recovered, but these don't involve full reimbursement.

Contingency fee arrangements are generally prohibited in Hong Kong, though this isn't universal.

Normally, foreign plaintiffs or corporate plaintiffs without assets in Hong Kong are ordered to provide security for defendants' costs by way of making a payment to the court. Counterclaiming plaintiffs may in certain circumstances be required to provide security as well.

To encourage out-of-court settlements, various measures have been implanted into the civil procedural rules which may lead to costs consequences. For instance, while mediation isn't compulsory, the court has the power to impose adverse costs consequences if the parties unreasonably fail to attempt mediation.

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Tax Calendar

September 2023 - Tax Calendar

7TH SEPTEMBER	Due date for deposit of Tax deducted/collected for the month of August, 2023
14TH SEPTEMBER	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194-M, 194S in the month of July, 2023
15TH SEPTEMBER	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2023 has been paid without the production of a challan
15TH SEPTEMBER	Due Date for deposit of 2nd instalment of Advance Tax for the Assessment Year 2024-25
30TH SEPTEMBER	Due date for furnishing of challan-cum-statement in respect of tax deducted under <u>section 194-IA</u> , 194-IB, 194M, 194S for the month of August, 2023
30TH SEPTEMBER	Due date for filing of Audit Report under <u>section 44AB</u> for the assessment year 2023-24 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2023)
30TH SEPTEMBER	Application in Form 9A for exercising the option available under Explanation to <u>section 11(1)</u> to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2023).
30TH SEPTEMBER	Statement in Form no. 10 to be furnished to accumulate income for future application under <u>section 10(21)</u> or <u>section 11(1)</u> (if the assessee is required to submit return of income on November 30, 2023).
30TH SEPTEMBER	Form 27EQ _Quarterly statement of TCS deposited for the quarter ending June 30, 2023
30TH SEPTEMBER	Form 26Q & 27Q _Quarterly statement of TDS deposited for the quarter ending June 30, 2023



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