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May 2022

WORLD TAX

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We are pleased to present the latest edition of Tax Street – our newsletter that covers all the key developments and updates in the realm of taxation in India and across the globe for the month of May 2022.

- The 'Focus Point' explores the interplay between GST and Equalization levy for taxing digital supplies.
- Under the 'From the Judiciary' section, we provide in brief, the key rulings on important cases, and our take on the same.
- Our 'Tax Talk' provides key updates on the important tax-related news from India and across the globe.
- Under 'Compliance Calendar', we list down the important due dates with regard to direct tax, transfer pricing and indirect tax in the month.

We hope you find our newsletter useful and we look forward to your feedback.
You can write to us at taxstreet@nexdigm.com. We would be happy to hear your thoughts on what more can we include in our newsletter and incorporate your feedback in our future editions.

Warm regards,
The Nexdigm Team

Focus Point

Taxing digital supplies – The GST and Equalization levy interplay

Introduction

Technology and digitalization have completely transformed our lives and businesses in ways that we could not imagine. It has resulted in an unprecedented increase in scale, scope, and speed of trade, thereby allowing the introduction of new products and services to a large number of digitally connected consumers across the world. Over the last decade, we have seen exponential growth in international trade on account of expansive digital transformation. While we all are learning the new way of life and ever-changing eco-system, levying a tax in this environment has been challenging, especially in cases of cross-border transactions.

The tax authorities across the globe have been debating on ways and means to determine the situs of digital supplies and, in turn, the taxing rights. In fact, the situs, or the location nexus for an activity or transaction, is very relevant and has been the centerpiece of many taxation laws.

With technology and digitalization, physical or locational presence may not be needed. This has the potential of 'tax planning.' However, the tax authorities across the globe are also gearing up for this. One such illustration to address tax challenges is the Action Plan 1 of Framework on Base Erosion and Profit Shifting (BEPS).

While the international agreement on this is yet to be reached, Indian tax authorities being very proactive, have already introduced an interim unilateral tax on certain digital services. In 2016, an Equalization levy at 6% on non-resident service providers of online advertisements was introduced. It was then extended to e-commerce supply of goods and/or services at 2% w.e.f. 1 April 2020. Separately, under the erstwhile Service tax law (at 15%) and now continued in the GST regime (at 18%), B2C cross-border Online Information Database Access and Retrieval services (OIDAR services) have been brought to tax in line with the electronically supplied services in the EU VAT. These levies are imposed on non-residents not having a place of business in India on the principles of fiscal neutrality.

Fiscal neutrality here would mean that just because a non-resident is not located in India, he should not go untaxed if the income of revenue is derived from India. Let's take OIDAR services to examine this concept in a bit more in detail.

Under the GST law[1], OIDAR services have been defined to mean services whose:

a. delivery is mediated by information technology over the internet or an electronic network;
b. the nature of which renders their supply essentially automated;
c. involving minimal human intervention; and
d. impossible to ensure in the absence of information technology.

It further includes a list of electronic services such as:

- advertising on the internet;
- providing cloud services;
- provision of e-books, movies, music, software and other intangibles through telecommunication networks or the internet;

1. Section 2(17) of IGST Act, 2017

- providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- online supplies of digital content (movies, television shows, music and the like);
- digital data storage; and
- online gaming

If all the above services are targeted towards a recipient in India, then the same should be taxed. In the traditional method of taxation, if the service provider was in India, he would be liable to pay tax thereon. On the other hand, if the services were provided by an overseas entity to a Service Tax/GST registered taxpayer in India, then the same would be liable to tax on a reverse charge basis. However, if the services were provided to an unregistered service recipient, the same would go un-taxed.

To plug such loopholes, Service Tax / GST has been levied on B2C OIDAR services provided in India, akin to VAT on electronically supplied services in the EU. In all such cases, the non-resident supplier has to take registration in India and discharge GST on supplies to unregistered recipients without recourse to any input tax credit. There is no turnover/ transaction threshold for levy of GST and accordingly, a supply of OIDAR service for any value of consideration would be taxable under the provisions of law.

On the other hand, the Equalization levy seems to be introduced to negate the series of judicial decisions[2] whereby payments to foreign companies towards digital advertising and marketing escaped taxation in India, in the absence of the Permanent Establishment (PE) of such foreign companies in India.

The same resulted in a situation where companies earned substantial revenues and some of them could avoid income tax in the country of source as well as in the country of residence (by setting up in tax havens). On the other hand, a company resident in India earning revenue from e-commerce business was required to pay both income tax and indirect taxes thereon.

Therefore, it was decided vide Finance Act, 2016[3] to impose Equalization levy on the consideration paid by a person resident in India or by a non-resident having a PE in India to non-residents towards specified services, viz., online advertisement and related activities. The aggregate amount of consideration for such specified services should exceed INR 0.1 million and the payment should be to carry out business or profession.

While the levy was introduced as a separate chapter in the Finance Act, 2016, several provisions from the Income-Tax Act, 1961, have been made applicable to operationalize the levy.

In 2020, the provisions of Equalization levy (termed EL 2.0) were extended[4] to the e-commerce supply of goods and/ or services. As per the expanded provisions, a non-resident e-commerce operator would be liable to pay an Equalization levy of 2% on the consideration received towards:

a. online sale of goods, whether owned / not owned by such e-commerce operator
b. online provision of services provided by such e-commerce operator
c. online sale of goods and/or provision of services facilitated by such e-commerce operator
d. sale of advertisement which targets an Indian resident customer or which targets a customer who accesses the advertisement through an IP address located in India
e. sale of data collected from an Indian resident or from a person who uses an IP address located in India

Here, an e-commerce operator[5] is a non-resident who owns, operates or manages a digital or electronic facility or platform for online sale of goods or online provision of services or both.

However, a non-resident e-commerce operator with a PE in India or where the e-commerce transaction is effectively connected to such PE in India, as well as cases where the sales, turnover or gross receipts of the e-commerce operator from the e-commerce supply do not exceed INR 20 million in a year, have been kept outside the EL 2.0 purview.

It may also be pertinent to note that the amounts exigible for Equalization levy are exempt from the chargeability of income-tax[6]. It has also been clarified by the government that the transactions involving royalty/technical services fees would be taxable under Income-Tax Act, 1961 and not be liable to Equalization levy[7].

2. Yahoo India Pvt Ltd vs. Dy. Commissioner of Income Tax [(2011) 059 DTR] and Income Tax Officer vs. Right Florists Pvt Ltd [(2013) 086 DTR]
3. Section 165 of the Finance Act, 2016
4. Section 165A of the Finance Act, 2016 (as amended vide Finance Act, 2021)
5. Section 164(ca) of the Finance Act, 2016
6. Section 10(50) of the IT Act, 1961
7. Section 163 of the Finance Act, 2016 (as amended vide Finance Act, 2021)

OIDAR services vs Equalization levy

Having understood the two levies, we may turn our attention to their interaction in the Indian context. An online transaction could be subjected to GST or Equalization levy or both, depending on the nature thereof.

An electronic supply could qualify as an OIDAR service where the recipient is not registered under GST in India. It would mean that the levy would get attracted only to B2C online transactions, i.e., services, and in such cases, the foreign supplier would be liable to discharge GST. On the other hand, the provisions of Equalization levy are widely worded, and such levy applies to a wider base, viz., B2B and B2C e-commerce supplies of goods and/or services as well as digital advertising services. In fact, the levy also covers sales of advertisement/data between two non-resident persons having nexus with India.

However, at this juncture, it may be imperative to note that the transaction of sale of goods by a non-resident e-commerce operator to a customer in India could invite both Equalization levy as well as customs duty (at applicable rates) at the time of import into India. Therefore, a question does arise regarding the inclusion of Equalization levy for the purpose of valuation under the Customs law.

Furthermore, for a supply to qualify as an OIDAR service, it would be prudent to evaluate the degree of human intervention involved therein. If the same is 'minimal,' GST would be leviable. It may be pertinent to note that the term "minimal human intervention" is quite subjective, and since the same has not been defined in the GST law, it could potentially lead to protracted disputes.

As opposed to the above, the Equalization levy does not have any condition of minimal human intervention and would be applicable if one or more of the following online activities are involved in the e-commerce transaction:

a. Acceptance of offer for sale;

b. Placing the purchase order;

c. Acceptance of the purchase order;

d. Payment of consideration; or

e. Supply of goods or provision of services, partly or wholly.

Moreover, there is no turnover threshold to attract the GST levy on OIDAR services, whereas the Equalization levy comes into the picture where the consideration for digital advertising services is INR 0.1 million and above; and sales, turnover, or gross receipts from e-commerce supplies is above INR 20 million.

Given the intricate nature of GST on OIDAR services and Equalization levy, as well as the exchange of information/data between the Central Board of Direct Taxes (CBDT) and Central Board of Indirect Taxes & Customs (CBIC), it has become expedient for non-resident businesses to align their positions considering the key factors from a GST perspective vis-à-vis Equalization levy.

Conclusion

With India joining the new two-pillar plan to reform international taxation rules (ensuring the multinationals pay taxes wherever they operate and at a minimum 15% rate), the government may be required to roll back the Equalization levy on e-commerce transactions by December 2023[8]. While the policymakers work out the modalities for removing the existing levy, the question would remain as to the fate of GST on OIDAR services for the deal requires countries to remove all digital services tax and other similar unilateral measures and commit not to introduce such measures in the future.

8. https://www.moneycontrol.com/news/business/india-will-have-to-roll-back-equalisation-levy-by-dec-31-2023-under-oecd-multilateral-convention-7561611.html

From the Judiciary

Direct Tax

Whether the sale of software and provision of software maintenance services can be Royalty or Fees for Technical Services (FTS)?

M/s Microstrategy Singapore Pte Ltd. Vs ACIT
ITA No.2686/Del/2018

Facts

The taxpayer is a foreign company and tax resident of Singapore. It is engaged in the business of distribution and maintenance of software to customers in the Asian market. The taxpayer also provided consultancy, system integration and training services to its customers for the sale of software products. The taxpayer offered the revenue pertaining to training-related services to tax and the balance income from the sale of software, and other maintenance services were claimed to be neither FTS nor Royalty. Thus the taxpayer adopted a view that such income is non-taxable business income under the India-Singapore Double Tax Avoidance Agreement (DTAA) in the absence of its PE in India.

The tax officer concluded that the income from the sale of software products was in the nature of Royalty both under Indian Domestic Tax law (IDTL) and under India-Singapore DTAA, relying on the Karnataka High Court ruling in the case of Samsung Electronics[9]. Furthermore, the tax officer held that income from the provision of software-related services was in the nature of FTS under IDTL as well as under India-Singapore DTAA. This was upheld by the first appellate authority.

Held

The Tribunal stated that the factual matrix clearly reveals that the taxpayer has sold a copyrighted article and not the copyright. The Tribunal has placed reliance on the Hon'ble Supreme Court's judgment in the case of Supreme Court in the case of Engineering Analysis[10], wherein it was held that payments made by resident Indian end-users/ distributors to non-resident computer software manufacturers/ suppliers, as consideration for the resale/use of the computer software through End User License Agreements(EULAs)/ distribution agreements, does not constitute Royalty as it does not amount to parting with copyright.

On the issue of classification of income from software-related services as FTS, the Tribunal held that there was no material evidence to demonstrate that while providing the software-related service, the taxpayer has made available any technical knowledge, know-how, skill, etc. to enable the recipient of such service to use it independently. The Tribunal stated that since the make available condition of Article 12(4)(b) under the India-Singapore DTAA is not satisfied, the amount received will not be treated as FTS.

Our Comments

The Tribunal re-confirmed that the sale of software being a copyrighted article would not constitute Royalty.

The Tribunal has also appraised the fact that the "make available test" is a pre-requisite for qualification of a transaction to be FTS where the definition of FTS is restrictive.

Whether TDS under Royalty provisions is applicable on payment made for the Purchase of Advertising space outside India?

M/s. ESPN Digital Media (India) Pvt. Ltd Vs DCIT
ITA Nos. 1070, 1071, 1072 & 1073/ CHNY/2018

Facts

The taxpayer is an Indian Company who entered into a Re-seller agreement

9. Samsung Electronics [TS-733-HC-2011(KAR)]
10. Engineering Analysis Centre of Excellence Private Limited [TS-106-SC-2021]

with its UK counterpart for resale of advertisement space on websites owned by the UK counterpart. Under the said agreement, the taxpayer purchased advertising space on websites owned and hosted by the UK entity on servers outside India. Thereafter, the taxpayer sold the advertisement space to advertisers. The taxpayer adopted a view that the UK entity's website or server was placed under its control, and hence such payment was not taxable as Royalty for AY 2010-11 to AY 2013-14.

The Assessing Officer (AO) opined that the payments made by the taxpayer to the UK entity should be considered as Royalty, and hence taxpayer was liable for withholding tax on the said amount. The Commissioner of Income-Tax (Appeals) [CIT(A)] also held that the taxpayer was liable to deduct tax at source on the payments made as it qualified as Royalty. Aggrieved by the order, the taxpayer filed an appeal before the Chennai Tribunal.

Held

The Tribunal observed that the agreement did not provide the taxpayer any right to use any industrial, commercial, or scientific equipment as the website or the server was not under the control of the taxpayer. The Tribunal noted that no right, property, information or scientific experience was transferred to the taxpayer. The Tribunal also emphasized the earlier judicial precedents, which have held that no amendment to the Income-tax Act (ITA), whether retrospective and prospective, can be read in a manner so as to the extent in operation to the terms of an international treaty. The Tribunal also noted that the Finance Act, 2016 recognizes providing advertising space as a 'specified service,' which is subject to the Equalisation levy. Therefore, the contention that the sale of advertising space was Royalty under the ITA would be contrary to the legislative intent, the objects and purpose of the provisions of Equalization levy, as well as result in absurdity and double taxation.

Our Comments

The Tribunal has re-confirmed that unilateral amendments under the Act would not extend to the definition of Royalty under existing DTAA. Thus, the fee for advertising space was not qualified as Royalty and, therefore, was not taxable during the relevant AY, i.e., AY's before the provisions of Equalization levy came into force.

Transfer Pricing

Can excessive Advertisement, Marketing and Promotion (AMP) expenses be regarded as an international transaction in the absence of any understanding or agreement between the taxpayer and AE?

Olympus Medical Systems India Pvt Ltd [ITA No. 838/DEL/2021

Facts

The taxpayer is engaged in the business of import and resale of medical equipment and installation, repair and maintenance of this equipment.

The taxpayer had entered into international transactions with its AE and benchmarked the same using Transactional Net Margin Method (TNMM). The case was selected for TP audit by Transfer Pricing Officer (TPO).

TPO benchmarked the AMP expenses incurred over and above the expenses incurred by comparable entities by applying the Bright Line Test (BLT) and using the Cost Plus Method (CPM) on a substantive basis and proposed TP adjustment in the draft assessment order. The Dispute Resolution Panel (DRP) upheld the adjustment made by TPO. Thus, aggrieved with DRP's order, the taxpayer filed an appeal before the ITAT.

Taxpayer's Contentions

Before the ITAT, the taxpayer submitted that as a distributor of group's products, it had incurred AMP expenses to augment sales and not for brand promotion. The taxpayer further contended that since there is no understanding or agreement between the taxpayer and AE in relation to AMP expenses, it cannot be held to be an international transaction.

Revenue's Contentions

During the course of appeal proceedings, the TPO submitted that no distribution agreement exists between the taxpayer and AE and the name of the Brand was displayed in all workshops and conferences organized. Accordingly, the AE benefitted from such brand-building exercises by the taxpayer. Revenue further submitted that there is an arrangement or understanding or action in concert between the AE and the taxpayer, which is formal in nature, for incurring AMP expenses.

ITAT Held

On perusal of the relevant information and hearing submission from both sides, the ITAT noted that the taxpayer is not only the exclusive distributor of the AE, but also the customers can buy directly from the AE. Furthermore, as per the taxpayer's website, the group's brand value is the core object of the taxpayer's group. The ITAT observed that an identical issue relating to benchmarking of AMP expenses had come up for consideration before the Co-ordinate Bench in the taxpayer's own case for an earlier year, wherein the Tribunal clarified that in order to characterize a transaction as an international transaction, it has to be demonstrated that transaction arose in pursuant to an arrangement, understanding or action in concert. The ITAT also stated the product manufactured by the AE were exclusively displayed in various seminars/conferences along with the display of the brand name, which is owned by the AE and not by the assessee. Thus, by way of incurring AMP expenses, the AE has benefited. ITAT noticed that the taxpayer was working under the guidance of the AE and the representatives of the AE were monitoring the promotion activities. Thus, it is evident that there is an understanding or action in concert between the taxpayer and the AE for carrying out the AMP expenses. The ITAT also took recourse to the case of Vodafone India Services Ltd., wherein the expression 'acting in concert' was elaborated, for which reliance was placed on the decisions of Hon'ble Supreme Court in the case of Jubilee Mills Ltd. and Raghuvanshi Mills Ltd., thereby it was held that the transaction of AMP expenses was an international transaction. Regarding the method to be used for benchmarking such AMP expenses, the ITAT restored the issue to the TPO on whether Profit Split Method (PSM) adopted by the Revenue was appropriate.

Our Comments

Issue of AMP/marketing intangible in India has been widely debated in Indian courts as well as various forums overseas. In the above ruling, the Tribunal emphasized the principle of substance over form, which appears to be more logical.

Entity level benchmarking vs Segment level benchmarking?

Steer Engineering Pvt Ltd [ITA No.2071/Bang/2018

Facts

The taxpayer is engaged in the business of manufacturing extruders and their parts and elements for extruders. The said products manufactured by the taxpayers were sold to its AEs, who act as distributors of the said products manufactured by the taxpayer, for which the taxpayer paid commission to its AEs as a part of its business promotion expenses.

The taxpayer aggregated the international transactions at an entity level by combining the AE purchases along with AE sales and non-AE sales as a single business segment and adopted TNMM as the most appropriate method. The taxpayer identified two companies that were engaged in the sale of identical products compared to that of the taxpayer for benchmarking.

The transactions pertaining to the purchase and sale of extruders and parts and elements of extruders, purchase of fixed assets, payment of commission on sales, and availing of services were considered as closely linked transactions by the taxpayer.

However, the TPO, during the course of assessment proceedings, did not consider the benchmarking approach adopted by the taxpayer. The TPO proceeded to perform a fresh TP analysis with respect to manufacturing activity based on segmental analysis, i.e., bifurcation of the financial statement into international and domestic segments. The TPO held that the taxpayer's transactions with foreign subsidiaries are in the international segment and therefore considered the international sales segment for benchmarking purposes. Thereafter the TPO drew international and domestic segments by allocating expenditure between international and domestic sales in the ratio of turnover. In respect of "Business promotion" and "Marketing exhibition" expenses, the TPO allocated them on the basis of actual. Furthermore, the TPO also applied the export revenue filter of 25% and held that the apportionment of cost based on revenue is valid. The TPO held that since the segmental information of comparable companies was not available, the entity-level margin could not be adopted.

In relation to the contentions of the TPO, the taxpayer relied on the co-ordinate bench ruling M/s. Toyota Kirloskar Motors (P.) Ltd, wherein it was held that segregating trading and manufacturing segments held no meaning if the taxpayer and the comparable companies were at par with regard to the nature and scale of combined activities. The taxpayer

held that segmentation would disturb the functional integrity and, therefore, comparison at the entity level would be more appropriate. Furthermore, the taxpayer also contended that turnover could not be adopted for allocating all costs and that if the international segment of the taxpayer is to be benchmarked, then the comparables should pass the 75% export turnover filter. The view of the TPO was upheld by the CIT(A) as well.

Furthermore, the taxpayer had given a corporate guarantee to one of its AE for availing certain cash credit facilities for which no fees were charged from the said AE. However, the lower tax authorities disregarded this approach and arrived at a rate of 0.925% as the appropriate rate at which the taxpayer ought to have charged a guarantee commission from the AE.

ITAT Held

Benchmarking at entity level vs segmental level

- The ITAT held that on perusal of the TP Report of the taxpayer, it was not apparent as to how the international transactions of purchase, as well as the sale of extruders and parts, payment of a commission, purchase of assets, etc., were interlinked and interdependent.
- The terms and conditions, along with the economic circumstances with respect to the intercompany transactions, were different from the third party transactions undertaken by the taxpayer, hence profit margins of the taxpayer at the entity level could not be considered.
- The revenue from the international segment included sales from AE as well as third parties. Furthermore, the sales and related expenses pertaining to AE sales should be considered to arrive at the profit margin of the taxpayer for comparability purposes.

Apportionment of expenses

The taxpayer has not given substantial reasons/manner with respect to the rejection of the approach of the TPO with respect to the apportionment of expenses.

Export Sales filter

The ITAT upheld the approach of the lower tax authorities with respect to the adoption of the export turnover filter at 25% of the turnover.

Corporate Guarantee

The ITAT directed the ALP to be determined at 0.5% of the credit limit utilized and not the amount that was sanctioned to the AE.

Our Comments

The aggregation of transactions is a common approach followed by the taxpayer wherein we have observed that while doing the same, certain key principles of Transfer Pricing are not taken into consideration and the tax authorities have been rejecting the use of the said approach. For the taxpayer to aggregate inter-company transactions, it is critical that the taxpayer demonstrates and maintains robust documentation to show the interlinkage and interdependency with respect to the inter-company transactions before proceeding to aggregate them for the purpose of benchmarking.

Indirect Tax

Whether the deemed 1/3rd deduction with respect to land or undivided share of land in case of construction contracts involving an element of land is ultra vires the provisions of GST law and/ or violative of Article 14 of the Constitution?

Munjaal Manishbhai Bhatt vs. Union of India & Ors. [TS-214-HC(GUJ)-2022-GST]

Gujarat AAAR, in the case of Karma Buildcon [TS-582-AAAR(GUJ)-2021-GST] had affirmed the ruling of AAR [TS-771-AAR-2020-NT] to hold that value of supply for the transaction of sale of residential/commercial property with undivided rights of land is to be arrived in terms of the deeming provision of para 2 of Notification No. 11/2017-Central Tax (Rate)

Facts

- One of the writ applicants, a practicing advocate, had entered into an agreement with the landowner/ developer for the purchase of a plot of land along with the construction of a bungalow thereon. The consideration, therefore, was separate and distinct.
- The landowner/developer relied on Sr No. 2 of Notification No. 11/2017-Central Tax (Rate) to collect GST at 18% on the entire consideration payable for land and the construction of bungalow, after deducting 1/3rd of the value towards land.
- In such circumstances, the writ applicant approached the High Court assailing the imposition of tax on consideration towards the sale of developed land by virtue of delegated legislation as ultra vires the provisions of Sections 7 and 9 of the CGST Act, 2017 read with Entry No. 5 of Schedule III thereto, and Article 14 of the Constitution.

Ruling

- Perusing the legislative and judicial history of taxation of construction activities, High Court observed that when the statutory provision (viz., Section 15 of the CGST Act, 2017) requires valuation in accordance with the actual price paid and payable for the service and where such actual price is available, then tax must be imposed on such actual value. Deeming fiction can be applied only where the actual value is not ascertainable.
- In this regard, reliance was placed on the second Gannon Dunkerley[11] case, where the question of deducting the actual value of labor had been considered by the Apex Court, as well as the judgment in Wipro Ltd[12] rendered in the context of Customs valuation.
- Since the deeming fiction is uniformly applied irrespective of the size of the plot of land and construction therein, the same leads to arbitrary and discriminatory consequences, which are clearly violative of Article 14 of the Constitution. This has led to a situation whereby the measure of tax imposed has no nexus with the charge of tax, which is the supply of construction services.
- To allay the concern raised by Revenue regarding the plausible arbitrary valuation of land to save tax, the High Court clarified, if it is established that such value was not the sole consideration for the service, then the value can be derived by applying the cost-plus profit method or a reasonable value consistent with the principles and provisions of the statute.
- Consequently, paragraph 2 of Notification No. 11/2017-Central Tax (Rate) and the parallel State Tax Notification was read down by the High Court.
- Accordingly, it directed the refund of excess tax deposited with the government treasury directly to the writ applicant as he had borne the burden of tax as a recipient. The High Court also quashed the advance ruling appellate order, which was based on the impugned Notification.

Our Comments

This is a welcome verdict for all the stakeholders in the real estate sector. The deduction of the actual cost of land, wherever it is ascertainable, will help reduce the effective cost of acquisition of property for the buyers, particularly in Tier I and II cities where the value of land is on the higher side. This, in turn, could help boost the demand for real estate during the present inflationary times.

Subject to the possibility of an appeal before the Supreme Court and/ or retrospective amendment to the legislation, the industry could act upon the ratio of the judgment by reviewing the past, existing, or future agreements to take abatement basis the actual value of land/ undivided share of land from the total consideration where the same can be established, and/or seeking a refund of GST already paid proportionate to the actual value.

Whether the levy of GST under the reverse charge mechanism on ocean freight in case of CIF imports, is constitutionally valid?

Union of India & Anr. vs. Mohit Minerals Pvt. Ltd [Civil Appeal No. 1390 of 2022]

Ruling

- The levy imposed on the 'service' aspect of the transaction violates the principle of 'composite supply' under Section 2(30), read with Section 8 of the CGST Act.
- The impugned levy has a two-fold connection: first, the destination of the goods is in India, and thus, a clear territorial nexus is established with the event occurring outside the territory; and second, the services are rendered for the benefit of the Indian importer.
- The fact that a foreign exporter pays consideration to the foreign shipping line would not stand in the way of it being considered as a "supply of service" in the course of inter-state trade or commerce.
- The amended Section 5(4) of the IGST Act enables the government to create a deeming fiction of declaring a class of registered persons "as the recipients." In deploying the language "as the" and not "by the" recipient, the applicability of the definition of the recipient under Section 2(93) of the CGST Act is no longer necessary for determining the validity of the Notification.
- Neither Section 2(107) nor Section 24 of the CGST Act qualify the imposition of reverse charge on a "recipient of service" and broadly impose it on "the persons who are required to pay tax under reverse charge." Since the impugned Notification No. 10/2017-IGST identifies the importer as the recipient liable to pay tax on a reverse charge basis under Section 5(3) of the IGST Act, the argument for the failure to identify a specific person who is liable to pay tax does not stand.
- Notification No. 8/2017-IGST prescribing deeming value for the imposition of tax on reverse charge basis cannot be struck down for excessive delegation.

Our Comments

Pursuant to the said judgment, the importers who have already paid GST on ocean freight and have not claimed input tax credit could seek a refund on the grounds that tax was collected without the authority of law.

11. [(1993) 1 SCC 364]
12. [(2015) 14 SCC 161]

However, it may be pertinent to note that the levy has been struck down only on the ground of violation of principles of 'composite supply,' as the Indian importers are liable to pay GST on goods, including freight portion in a CIF contract and hence, cannot be asked to pay GST on supply of transportation service. On the other hand, the Apex Court has upheld the validity of the impugned Notifications on various counts.

The decision also widens the scope of the term "recipient." Such an interpretation may allow the government to shift the burden of GST payment on the beneficiaries of supply instead of the actual recipient who pays the consideration. This could lead to prolonged disputes with the Department.

Mergers and Acquisitions Tax

Telangana High Court admits writ petition by the taxpayer against the decision of the GAAR panel for invoking GAAR provisions

EKGE Retail LLP [writ petition no:21210 of 2022] (High Court of Telangana)

Telangana High Court has recently admitted a writ petition by the taxpayer against an order of the General Anti-avoidance Rule (GAAR) panel in relation to a matter wherein tax authorities sought to invoke GAAR provisions for certain transactions undertaken by the taxpayer.

The High Court admitted the writ petition relying on the decision of the Supreme Court in the case of Walfort Share & Stock Brokers, wherein it was held that tax planning is a taxpayer's prerogative.

Our Comments

While the GAAR provisions have been effective 1 April 2017, it was only in this year that the GAAR panel got constituted. Post constitution of the panel, this is the first reported matter on invoking the provisions. It would be worthwhile to closely examine the facts of the case and the principles that would emanate from the High Court's decision on the writ petition filed by the taxpayer.

NCLT approves the Scheme by brushing aside the tax avoidance allegation of the tax authorities and consequent application of GAAR provisions

In the matter of Scheme of amalgamation of Panasonic India Private Limited and Panasonic Life Solutions India Private Limited [CP (CAA) No.8/Chd/Hry/2021 (2nd Motion)]

The Chandigarh bench of the NCLT recently approved the Scheme of amalgamation for Panasonic India Pvt. Ltd. (Transferor - a loss-making company) with Panasonic Life Solutions India Private Limited (Transferee - profit-making company). It junked the tax avoidance allegation of the tax department and the consequent application of GAAR provisions.

NCLT overruled the tax authority's argument that the merger is nothing but a vehicle to transfer accumulated losses eligible for set off from Transferor to Transferee Company, stating that the tax authority is at liberty to invoke the GAAR provisions during the course of assessment or reassessment proceedings by analyzing the Scheme and taking the decision basis the provisions of ITA. NCLT highlighted that the provisions of Section 72A r.w. Rules as also Section 79 relating to carrying forward and set off of losses are sufficient to protect the interest of revenue in any case of amalgamation or demerger, etc.

NCLT further dismissed tax authority's objection that the shareholders of the amalgamating company stood to benefit from an exemption of capital gains taxation while noting that the said shareholders would anyway have had no obligation to pay capital gain taxes based on India's Tax Treaty with the Netherlands and Singapore on the transfer of shares of the Transferor Company if the transaction had not taken place.

Observing that the Scheme is for business consolidation and the tax arrangements are merely a consequential fall out of the implementation of the Scheme, NCLT distinguished on facts tax authority's reliance on decisions referred by them, holding that in the present case, the petitioner companies have clearly made out a case of operational synergy between the amalgamating companies and that the rationale of the Scheme justifies the same.

In conclusion, NCLT asserted that there's not enough merit in the objections raised by the Income Tax Department to justify any adverse inference with regard to the proposed Scheme of Amalgamation and that the Scheme appeared to be prima facie in compliance with all the requirements stipulated under the relevant Sections of the Companies Act, 2013. In the absence of objections from any other authority, it sanctioned the Scheme of amalgamation.

Our Comments

This is certainly a welcome decision. The decision takes due cognizance of the commercial rationale and objectives in undertaking a merger and the fact that the specific provisions of ITA and valuation norms have been duly complied with. It emphasizes that the schemes should be internally scrutinized by the GAAR test and should be able to establish the commercial substance of the transaction.

Regulatory Updates

Ministry of Corporate Affairs (MCA)

Extension for holding General Meetings through VC or OAVM

In continuation to a series of general circulars issued previously since the onset of the COVID-19 pandemic, the Ministry of Corporate Affairs (MCA) vide its General Circular no. 2 and 3/2022 dated 5 May 2022 has allowed all the Companies to conduct Annual General Meetings (AGMs) and Extraordinary General Meetings (EGMs) to be held on or before 31 December 2022 through Video Conferencing (VC) or Other Audio Visual Means (OAVM) or pass special and ordinary resolutions or transact items through the postal ballot in accordance with the framework provided in the aforesaid circulars.

The MCA has further clarified that the said relaxation shall not be construed as an extension of time for holding AGMs under the Companies, 2013 (the Act) and the timelines provided under the Act will have to be strictly adhered to.

Our Comments

Relaxations brought in by the Ministry during the pandemic like conducting general meetings through virtual or hybrid mode, have been accepted as the new normal by the industry because of its convenience and cost-effectiveness for the Companies as well as the members attending the meetings. This extension of the video conference facility for holding general meetings even in the year 2022 has been welcomed with open arms.

Securities and Exchange Board of India (SEBI) Regulations

Relaxation from compliance with certain provisions of the SEBI (LODR) Regulations, 2015

For Equity Listed Entities

SEBI has provided the relaxation up to 31 December 2022, from Regulation 36 (1) (b) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations), which requires sending a hard copy of the annual report containing salient features of all the documents prescribed in Section 136 of the Companies Act, 2013 to the shareholders who have not registered their email addresses. Furthermore, the notice of the Annual General Meeting published by advertisement in terms of Regulation 47 of LODR Regulations shall contain a link to the annual report so as to enable shareholders to have access to the full annual report. Furthermore, provided that the requirement of sending proxy forms under Regulation 44 (4) of the LODR Regulations is dispensed with upto 31 December 2022, in case of general meetings held through electronic mode only.

For entities with listed non-convertible securities

SEBI has provided relaxation up to 31 December 2022, from the requirements of Regulation 58 (1)(b) of the LODR Regulations, which prescribes that an entity with listed non-convertible securities shall send a hard copy of a statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those holders of non-convertible securities who have not registered their email address(es) either with the listed entity or with any depository.

Our Comments

LODR regulations mandate listed entities to send hard copies of certain important documents to those shareholders who have not registered their email addresses either with the listed entity or with any depository. However, relaxations were given by SEBI during COVID times from the requirement of sending hard copies of annual reports, statements, proxy forms, etc., to such shareholders. These relaxations have now been extended up to 31 December 2022, which is a welcome step.

Simplification of procedure and standardization of formats of documents for issuance of duplicate securities certificates

With a view to making the issuance of duplicate securities more efficient and investor-friendly, SEBI has simplified the procedure and documentation requirements for the issuance of duplicate securities. Regarding documents required to be submitted by a security holder while requesting the issuance of duplicate securities certificates, a copy of the FIR, including e-FIR, necessarily has details of the securities, folio number, distinctive number range, and certificate numbers will be required. In addition, issuing advertisements regarding loss of securities in a widely circulated newspaper and submitting Affidavit and Indemnity bond in a prescribed format will also be required. Furthermore, provided that duplicate securities shall be issued in dematerialized mode only as mandated vide SEBI Circular dated 25 January 2022.

Our Comments

SEBI has now simplified the procedure and documentation requirements for the issuance of duplicate securities. Notification of these uniform documentation and procedural guidelines will help to streamline the procedural formalities for the issuance of duplicate securities.

Tax Talk

Indian Developments

Direct Tax

CBDT issues instructions regarding implementation of judgment of hon'ble Supreme Court

[Dated 4 May 2022 (Union of India v. Ashish Agarwal)]

- Hon'ble Supreme Court, in its judgment dated 4 May 2022, has adjudicated on the validity of the issue of reassessment notices issued by the AOs during the period beginning on 1 April 2021 and ending on 30 June 2021, within the time extended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and various notifications issued thereunder.
- Taking into account the decision of the Hon'ble Supreme Court, it is clarified that the judgment applies to all cases where extended reassessment notices have been issued. This is irrespective of the fact whether such notices have been challenged or not.
- With respect to the operation of new Section 149 of the Act, the judgment has clarified as under:
  - For AY 2013-14, AY 2014-15 and AY 2015-16: Fresh notice under Section 148 of the Act can be issued in these cases, with the approval of the specified authority, only if the case falls under clause (b) of sub-section (l) of Section 149 as amended by the Finance Act, 2021.
  - AY 16-17, AY 17-18: Fresh notice under Section 148 can be issued in these cases, with the approval of the specified authority, under clause (a) of sub-section (1) of new Section 149 of the Act, since they are within the period of three years from the end of the relevant assessment year.
- The circular has also clarified the procedure required to be followed by the AOs to comply with the Supreme Court judgment.

CBDT introduces conditions for furnishing return of income by persons referred to in clause (B) of sub-section (1) of Section 139 in Rule 12AB

[Notification G.S.R. 307(E) [No. 37/2022/F.no.370142/01/2020-Tpl(Part1)]) dated 21 April 2022]

- In light of Section 139(1), read with Section 295 of ITA,1961, the CBDT had made the filing return of income mandatory for the following persons by way of insertion on rule 12AB.
- As per the rule, if any of the below conditions are fulfilled, the person will require the mandatory filing of a return:
  - If his total sales, turnover, or gross receipts, as the case may be in the business, exceeds **INR 6 million** during the previous year; or
  - If his total gross receipts in profession exceed **INR 1 million** during the previous year; or
  - If the aggregate of TDS deducted and TCS collected during the previous year exceeds **INR 25,000 or more** (except in the case of Individual resident senior citizens, the limit is **INR 50,000** or more);
  - If his deposit in one or more savings bank accounts is **INR 5 million or more** during the previous year.

CBDT has introduced rule 12AC for updated return of income

[Notification G.S.R. 325 (E) [No. 48/2022/F. No.370142/18/2022-TPL (Part1)] dated 29 April 2022]

The return of income to be furnished by any person eligible to file such return under the sub-section (8A) of Section 139, relating to the assessment year commencing on the 1 April 2020 and subsequent assessment years, shall be in the Form ITR-U and be verified in the manner indicated therein.

CBDT introduces new Rule 114BA for mandatory PAN card applications and Rule 114BB for quoting mandatory PAN or Aadhaar number

[Notification G.S.R. 346(E) [No. 53/2022/F.No. 370142/49/2020-TPL] dated 10 May 2022]

- The board has notified certain persons, as mentioned below, who he needs to apply for PAN under rules 114BA:
  - The person making a Cash deposit or deposits aggregating to INR 2 million or more in a financial year in one or more accounts of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in Section 51 of that Act) or a Post Office.
  - The person making Cash withdrawal or withdrawals aggregating to INR 2 million or more in a financial year in one or more accounts of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in Section 51 of that Act) or a Post Office.
  - The person opening a current account or cash credit account with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in Section 51 of that Act) or a Post Office."
- The board has also notified certain transactions in which the person liable to obtain the PAN is required to quote the PAN or Aadhaar number, as the case may be under rules 114BB.

Indirect Tax

CBIC clarifies the legal position on voluntary tax payments during search, inspection or investigation

[Instruction No. 01/2022-23 dated 25 May 2022]

- CBIC's GST Investigation Wing has issued a clarification/advisory to eradicate instances of forced or coerced 'recovery' by the tax officers during the course of a search, inspection or investigation. It has been clarified, *inter alia*, that:
  1. Recovery of taxes not paid or short paid can be made under the provisions of Section 79 of the CGST Act, 2017 only after following the due legal process of issuing notice and subsequent confirmation of demand by the issuance of adjudication order.
  2. Therefore, there may not arise any situation where the tax officer must make "recovery" of the tax dues during the course of search, inspection, or investigation on account of any issue detected during such proceedings.
  3. However, there is no bar on the taxpayers for voluntarily making the payments on the basis of ascertainment of their liability before or at any stage of such proceedings. The tax officer should inform the taxpayers about the provisions of voluntary tax payments through DRC-03.
  4. In case a complaint from a taxpayer is received regarding the use of force or coercion for getting the amount deposited during search or inspection or investigation, the Pr. Chief Commissioners/Chief Commissioners, CGST Zones and Pr. Director General, DGGI should make a quick inquiry and take strict disciplinary action as per the law if any tax officers have found any wrongdoing.

Haryana government's taxpayer-friendly measures in GST

[Memo No. 362/GST dated 19 May 2022]

The Excise and Tax Department of Haryana has decided to re-engineer internal processes to implement taxpayer-friendly measures in GST. Some of the decisions include:

i. No officer/official shall enter the premises of any taxpayer without proper authorization and identity card. The tax inspectors shall not visit any premise except when they are conducting a physical inspection under Rule 25 of HGST Rules, 2017 or if they are part of a search, inspection or audit operation.

ii. No letter/communication should be sent from a field office without an ID that is generated from the BO web system. If, due to any unforeseen circumstances, the ID cannot be created on the BO web system, then the ID shall be the E-office number generated for the file.

The Department also apprised about instructions already issued requiring the Joint Commissioners of State Tax to review details of Input Tax Credit (ITC) blocked above INR 5 million and Deputy Commissioner of State Tax to review ITC blocked upto INR 5 million under Rule 86A of HGST Rules, 2017 in their respective districts and find out reasons thereof.

Road & Infrastructure Cess cut on fuel; Petrol and Diesel become cheaper

[Notification No. 02/2022-Central Excise dated 21 May 2022]

Road & Infrastructure Cess (additional excise duty) levied on petrol and diesel has been reduced to INR 5 per liter and INR 2 per liter respectively, w.e.f. 22 May 2022. Resultantly, the price of petrol has decreased by INR 9.5 per liter while that of diesel by INR 7 per liter.

Government hikes export duty on iron and steel products

[Notification No. 29/2022-Customs dated 21 May 2022]

Export duty has been hiked on specified items to boost the local supply of iron ore and steel intermediates. Accordingly, 'iron ore pallets' would now attract 45% export duty w.e.f. 22 May 2022, while exports of 'pig iron' and 'flat-rolled products of iron or non-alloy steel, hot-rolled, not clad, plated or coated' would be exigible to 15% duty.

GST Council mulls GST on cryptocurrencies

[Excerpts from various sources]

The GST Council is considering the imposition of tax on cryptocurrencies. In this regard, the below measures are likely to be discussed in the upcoming GST Council meeting:

i. 28% GST on services such as crypto mining along with sales and purchases;

ii. Introduction of 18% tax on reverse charge on virtual digital asset investments in foreign crypto platforms.

The proposed 28% GST would be in addition to the 30% income tax charged on earnings from crypto-asset transactions.

Tax Talk

Global Developments

Direct Tax

G7 Finance Ministers and Central Bank Governors Reiterate Commitment to OECD's Two-Pillar Solution

[Excerpts from Orbitax News, 23 May 2022]

The US Department of the Treasury has published the official communiqué issued after the G7 Finance Ministers and Central Bank Governors Meeting held from 18 to 20 May 2022, which includes a continued commitment to the implementation of the Organisation for Economic Co-operation and Development's (OECD's) two-pillar solution for international tax reform. In this regard, the communiqué includes the following:

"We reiterate our strong political commitment to the timely and effective implementation of the OECD/G20 Inclusive Framework Two-Pillar Solution to address the tax challenges arising from globalization and the digitalization of the economy with a view to bringing the new rules into effect at a global level. We will provide support to developing countries for the implementation of this historic agreement. We welcome the report by the OECD Secretariat on tax co-operation for the 21st century and ask the OECD to continue its work in this area and to report back on further developments."

OECD releases public comments on CARF and amendments to CRS

[Excerpts from oecd.org, 2 May 2022]

On 22 March 2022, interested parties were invited to provide comments on the Crypto-Asset Reporting Framework (CARF) and amendments to the Common Reporting Standard (CRS). The OECD is grateful to the commentators for their input and now publishes the public comments received.

ICAI

- Suggests that the scope should be limited/restricted only to the products for financial purposes. The transactions through e-wallet should be excluded for reporting purposes. Any purchases/payments made within the threshold limit for personal usage per se should be outside the scope of CRS Reporting.
- An appropriate account balance threshold states that the significance of the threshold varies from jurisdiction to jurisdiction. It suggests that initially, to start with and to bring all jurisdictions at par, the threshold may be fixed at an amount determined after duly carrying out a global survey of the volume of transactions. The threshold can alternatively be fixed on the basis of purpose/usage.

Tax Justice Network

- Suggests that all "Retail Payment Transactions" should be covered without applying thresholds as thresholds can be circumvented.
- Notes that the framework excludes closed-loop crypto-assets because they are supposed to pose limited tax compliance risks. However, points out that it's not clear how the restrictions would apply in practice, especially in cases where a secondary market is created for these closed-loop crypto assets. It states that if there's no way to prevent closed-loop crypto-assets from being transferred in a secondary market or being used as an investment, they should also be within the scope of reporting.

China deposits an instrument for the approval of the Multilateral BEPS Convention

[Excerpts from oecd.org, 25 May 2022]

China has deposited its instrument of approval for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) Convention, which now covers over 1820 bilateral tax treaties, thus underlining its strong commitment to preventing the abuse of tax treaties and BEPS by multinational enterprises. China's instrument of approval also covers Hong Kong (China)'s bilateral tax treaties. The Convention will enter into force on 1 September 2022 for China.

On 1 June 2022, over 880 treaties concluded among the 76 jurisdictions which have ratified, accepted or approved the BEPS Convention will have already been modified by the BEPS Convention. Around 940 additional treaties will be modified once the BEPS Convention has been ratified by all Signatories.

Transfer Pricing

Transfer Pricing Amendments introduced in the Finance Bill 2022 in Kenya

A. Introduction and Amendments to Transfer Pricing Regime in Kenya

Kenya introduced Transfer pricing rules in 2006 to supplement the provisions of Section 18(3) of the ITA, 2006, Cap 470 and the said rules were significantly in line with the OECD's Transfer Pricing Guidelines.

Furthermore, the Finance Act 2021, introduced key changes with respect to (i) expanding the definition of control (ii) enhanced the definition of permanent establishment (iii) Introduction of Country-by-Country Reporting (CbCR).

Recently, the Finance Bill 2022 presented at the National Assembly in April 2022 has introduced a raft of changes with respect to Transfer Pricing, which inter-alia includes changes in the documentation requirements, which are in line with OECD BEPS Action Plan 13.

The aforesaid changes were introduced with an aim to increase international tax transparency and access to information between member nations with respect to the global allocation of income, the taxes paid, retained earnings, tangible assets, etc.

Pre & Post Finance Bill 2022 – Changes

Pre-Finance Bill 2022	Post Finance Bill 2022
Requirement to meet Arm's Length Pricing(ALP) principle and maintain prescribed documentation. ALP principle is largely modeled around OECD guidance. No requirement for Master File and CbCR.	Provides for three-tier Transfer Pricing Documentation structure: • CbCR, • Local File, and • Master File Bill proposes to repeal the current Section 18A of the ITA to the effect of expanding the transactions subject to transfer pricing rules between resident persons and persons in a preferential tax regime.

B. Three-tiered documentation requirements

1. Country-By-Country Reporting

Particulars	Documentation requirements
Notification requirement	• Multinational enterprise (MNE) or a constituent entity resident in Kenya shall notify the Commissioner as to whether it is i. Ultimate Parent Entity (UPE) of the Group; or ii. Surrogate Parent Entity (SPE); or iii. If neither UPE or SPE, the identity of the constituent entity, which is the UPE and its tax residency status. • The Notification shall be made to the Commissioner not later than the last day of the reporting financial year of that Group.

Particulars	Documentation requirements
Filing of CbCR	
Applicability	MNE resident in Kenya is required to file the CbCR with the Commissioner with respect to the financial activities of the Group in Kenya as well as other jurisdictions where the Group has a taxable presence.
Threshold	KES 95 billion (including extraordinary or investment income).
Due Date	CbCR needs to be filed within 12 months after the last day of the reporting financial year of the MNE group

2. Local File (LF) Reporting

Particulars	Documentation requirements
Filing of Local File	
Threshold	Presently, no threshold criteria prescribed for the preparation and maintenance of the Local File.
Due Date	Local File needs to be filed **within six months** from the end of the financial year.
Information to be submitted	• Description of the management and organization structure of the local entity. • Details of business and business strategy. • Details pertaining to controlled transactions. • Financial information. • Key competitors.

3. Master File (MF) Reporting

Particulars	Documentation requirements
Filing of Master File	
Threshold	Presently, no threshold criteria are prescribed for the preparation and maintenance of the Master File.
Due Date	Master File needs to be filed **within six months** from the end of the financial year.
Information to be submitted	• Organizational structure. • Description of the MNE's business(es). • Profit Drivers. • Description of Supply Chain. • Functional Analysis. • Description of important service agreements other than R&D. • Intangible related details. • Intercompany financial activities. • Financial and tax position.

C. Penalties for Non- Compliance

A taxpayer who fails to comply with the reporting requirements will be subject to the penalties prescribed under the Tax Procedures Act.

Indirect Tax

Labelling of 0% goods mandatory

[Excerpts from zawya.com]

The Consumer Protection Authority (CPA) has directed all the shopping centers and stores in various governorates of the Sultanate of Oman to make a label identifying all the goods exempted from VAT. This compliance has been imposed as a result of fallacies that occur in shopping centers and exploitation by some traders due to a lack of awareness among customers.

Elimination of food sales tax

[Excerpts from various sources]

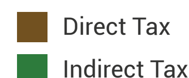
Kansas Governor Laura Kelly has signed a petition which will gradually decrease the state's sales tax on groceries by 2025. The sales tax will be reduced from 6.5% to 4% effective from 1 January 2023. Subsequently, the tax will be reduced from 4% to 2% on 1 January 2024 and completely repealed by 1 January 2025. This proposal will have no effect on local grocery sales taxes, which are in addition to the 6.5% state tax charged currently.

Two months' sales tax holiday

[Excerpts from mcall.com]

Owning to the rising inflation in the economy, Pennsylvania State Senator Lisa Boscola has proposed suspending the state's 6% sales tax for June and July, giving the citizens a two months' tax holiday. However, various concerns and doubts have been raised regarding the same.

Compliance Calendar



10 June 2022

- GSTR-7 for the month of May 2022 to be filed by taxpayer liable for TDS
- GSTR-8 for the month of May 2022 to be filed by taxpayer liable for TCS

11 June 2022

GSTR-1 to be filed by registered taxpayers for the month of May 2022 by all registered taxpayers, not under the QRMP scheme

13 June 2022

- GSTR-6 for the month of May 2022 to be filed by Input Service Distributor (ISD)
- Uploading B2B invoices using Invoice Furnishing Facility under QRMP scheme for the month of May 2022 by taxpayers with aggregate turnover of up to INR 50 million

14 June 2022

Due date for issue of TDS Certificate for tax deducted under Section 194-IA, 194-IB,194-M in the month of April 2022

15 June 2022

- Due date for issuance of quarterly TDS certificates (in respect of tax deducted for payments other than salary) for the quarter ending March 2022
- Payment of the first installment of advance tax for all taxpayers other than taxpayers opting for presumptive taxation for the assessment year 2023-24 (15% of estimated tax liability to be deposited on a cumulative basis)
- Due date for issuance of a certificate of tax deducted at source to employees in respect of salary paid and tax deducted during FY 2021-22

20 June 2022

- GSTR-5 for the month of May 2022 to be filed by Non-Resident Foreign Taxpayer
- GSTR-5A for the month of May 2022 to be filed by Non-Resident service provider of OIDAR services
- GSTR-3B for the month of May 2022 to be filed by all registered taxpayers, not under the QRMP scheme

25 June 2022

Payment of tax through GST PMT-06 by taxpayers under QRMP scheme for the month of May 2022

30 June 2022

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, 194-IB,194-M in the month of May 2022
- Due date for furnishing return in respect of securities transaction tax for the financial year 2021-22.
- Furnishing of Equalisation levy statement for the Financial Year 2021-22

7 July 2022

Due date for deposit of tax deducted/collected for the month of June 2022

SimplifiedGST

Delivering ease to GST Compliance

- GSTR-1
- ITC Reconciliation
- GSTR-3B
- Refunds

Schedule a Demo

10 July 2022

- GSTR-7 for the month of June 2022 to be filed by taxpayer liable for TDS
- GSTR-8 for the month of June 2022 to be filed by taxpayer liable for TCS

11 July 2022

- GSTR-1 to be filed by registered taxpayers for the month of May 2022 by all registered taxpayers, not under the QRMP scheme

13 July 2022

- GSTR-6 for the month of May 2022 to be filed by ISD
- GSTR-1 for the quarter of April 2022 to June 2022 to be filed by all registered taxpayers under the QRMP scheme

Webinars and Events

Webinar
9 June 2022
UAE Corporate Tax
Organizer - Achromic Point
Trupti Mehta

Event
7 June 2022
2nd Edition Tax Strategy and Planning Summit 2022
Organizer - UBS Forums
Exhibiting

Webinar
31 May 2022
Aligning Kenya Transfer pricing regime to global standards
Organizer - Nexia Tanzania
Maulik Doshi

Webinar
27 May 2022
CII Tax-Leader Forum 2021-22
Organizer - CII
Saket Patawari and Maulik Doshi

Alerts

Key Highlights of GST Notifications and Clarification Circulars May 2022
2 June 2022
https://bit.ly/3O5H92U

MCA tightens provisions regarding the appointment of an individual from neighboring countries as a Director in an Indian company
2 June 2022
https://bit.ly/3GG4HsT

MCA notifies amendments to keep a check on FDI from neighboring countries
1 June 2022
https://bit.ly/3akc9hi

Apex Court's respite to importers: No GST on ocean freight in CIF contracts
26 May 2022
https://bit.ly/3Q8D2oF

Ministry of Finance, UAE introduces new reporting portal
20 May 2022
https://bit.ly/3aUzaHX

Key Highlights of GST Notification and Clarification Circulars in April 2022
12 May 2022
https://bit.ly/3QdroJl

UAE Corporate Tax

Listen: https://bit.ly/3lGTCy2

Articles

NCLT allows amalgamation while rejecting invocation of GAAR

3 June 2022
https://bit.ly/3NA3HJp

In the News

EXCLUSIVE: No proposal of 28% GST on crypto services, sources say

18 April 2022
Saket Patawari
Business Today
https://bit.ly/3PsRMP5

Relief to importers, clarity on Council's role: Experts

8 April 2022
Hindu Business Line
Saket Patawari
Print Edition

About Nexdigm

Nexdigm is an employee-owned, privately held, independent global organization that helps companies across geographies meet the needs of a dynamic business environment. Our focus on problem-solving, supported by our multifunctional expertise enables us to provide customized solutions for our clients.

We provide integrated, digitally driven solutions encompassing Business and Professional Services, that help companies navigate challenges across all stages of their life-cycle. Through our direct operations in the USA, Poland, UAE, and India, we serve a diverse range of clients, spanning multinationals, listed companies, privately-owned companies, and family-owned businesses from over 50 countries.

Our multidisciplinary teams serve a wide range of industries, with a specific focus on healthcare, food processing, and banking and financial services. Over the last decade, we have built and leveraged capabilities across key global markets to provide transnational support to numerous clients.

From inception, our founders have propagated a culture that values professional standards and personalized service. An emphasis on collaboration and ethical conduct drives us to serve our clients with integrity while delivering high quality, innovative results. We act as partners to our clients, and take a proactive stance in understanding their needs and constraints, to provide integrated solutions. Quality at Nexdigm is of utmost importance, and we are ISO/ISE 27001 certified for information security and ISO 9001 certified for quality management.

We have been recognized over the years by global organizations, like the International Accounting Bulletin and Euro Money Publications.

Nexdigm resonates with our plunge into a new paradigm of business; it is our commitment to ***Think Next.***

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