

Info Capsule

Thursday, August 03, 2023

President

CS Manish Gupta

Vice President

CS B Narasimhan

❖ Latest @ ICSI

Feedback on Company Forms in MCA21-V3 Portal

As you are aware, the Ministry of Corporate Affairs w.e.f. August 31, 2022 migrated filing of 9 Company Forms from MCA 21 V2 to V3 Portal.

The Ministry of Corporate Affairs w.e.f. January 23, 2023, has launched second set of Company Forms covering 56 forms on MCA21-V3 Portal for filing purposes. The list of all 56 Company Forms is available on MCA website.

The Institute of Company Secretaries of India, in its attempt to further facilitate the stakeholders and ensure smooth transition and implementation, is sharing your feedback to the Ministry of Corporate Affairs (MCA) on regular basis. Such feedback is constantly and closely monitored by MCA at all levels for timely resolution.

We request you to share your inputs/issues/suggestions on filing of Company Forms in MCA V3 at the link given below:

<https://forms.gle/m5NGoCbt4TibuD196>

We thank you for your continued support and hope for association in the future as well.

❖ Securities Laws & Capital Market

Audit of firm-level performance data of Portfolio Managers (August 02, 2023)

SEBI had prescribed that Portfolio Managers are required to audit firm-level performance data on an annual basis as per its Master Circular dated March 20, 2023. In order to have uniformity, it has been decided that Association of Portfolio Managers in India ('APMI'), in consultation with SEBI, shall specify standardised Terms of Reference ('ToR') for aforesaid audit of firm-level performance data. The standard ToR specified by APMI shall be applicable with effect from October 01, 2023, and shall be mandatorily followed by all Portfolio Managers for the purpose of annual audit of firm-level performance data. Further provided that the Portfolio Managers shall submit the confirmation of compliance with the requirement of annual audit of firm-level performance data in line with the standard ToR specified by APMI, to SEBI within 60 days from the end of each financial year.

For details:

https://www.sebi.gov.in/legal/circulars/aug-2023/audit-of-firm-level-performance-data-of-portfolio-managers_74900.html

❖ Indirect Tax

Goods & Service Tax

Recommendations of 51st GST Council Meeting (August 02, 2023-PIB)

GST Council in its 51st meeting recommended certain amendments in the CGST Act 2017 and IGST Act 2017, including amendment in Schedule III of CGST Act, 2017, to provide clarity on the taxation of supplies in casinos, horse racing and online gaming. The GST Council in the 50th meeting held on 11.07.2023 had deliberated on the Second Report of the Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming and had recommended that the actionable claims supplied in Casinos, Horse racing and Online gaming may be taxed at the rate of 28% on full face value, irrespective of whether the activities are a game of skill or chance. It was also decided by the Council that effort will be made to complete the process of making amendments in the Act at the earliest and bring the amendments into effect from 1st October 2023.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1945208>

❖ **Direct Tax**

- **New Income Tax Rule 6ABBB (Form 3AF) for Amortisation of External Preliminary Expenditure u/s 35D [Notification No. 54 Dated August 1, 2023]**

CBDT notifies new Income Tax Rule 6ABBB on “Form of statement to be furnished regarding preliminary expenses incurred under section 35D” which prescribes e-filing of the statement in Form 3AF one month before the ITR due date specified under section 139(1), using DSC or EVC.

Prior to amendment in Section 35D, preliminary activities were required to be performed by the assessee inhouse or by an CBDT approved external company, which posed numerous challenges to the successful implementation of new projects. To simplify the process of claiming amortisation for these preliminary expenses, Finance Act 2023 has amended section 35D of the Income Tax Act to remove the requirement of incurring expense on conducting such activities through CBDT approved companies, as part of the measures to ease compliance. The assessee will now only be required to provide a statement containing the specifics of this expenditure in the prescribed form 3AF in the prescribed manner.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-54-2023.pdf>

- **CBDT notify ‘Joint Electricity Regulatory Commission’ for Section 10(46) [Notification No. 55 Dated August 1, 2023]**

The Central Government notifies "Joint Electricity Regulatory Commission (for the State of Goa and Union Territories except Delhi), Gurugram (PAN: AAAJJ0668D), a commission constituted by the Government of India, for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961, in respect of the certain specified income arising to that Commission subject to fulfilment of certain specified condition.

Accordingly, “Joint Electricity Regulatory Commission” can claim exemption u/s 10(46) of certain specified income subject to fulfilment of certain conditions.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-55-2023.pdf>

- **CBDT exempted TDS on payment of rent to a unit located in IFSC for lease of Ship [Notification No. 57 Dated August 1, 2023]**

Section 194-I provides that any person, including specified individual and HUF, paying rent to a resident person in respect of plant, machinery, land, building, or furniture shall deduct tax therefrom. The tax shall be deducted if the sum paid or payable during the financial year exceeds Rs. 2,40,000.

The Central Board of Direct Taxes (CBDT) has exempted deduction of tax at source under section 194-I on payment of lease rent or supplemental lease rent made to a unit located in the International Financial Services Center (IFSC) for the lease of an ship subject to the fulfilment of certain conditions such as:

The lessor shall furnish a statement-cum-declaration in form no. 1 to the lessee giving details of previous years relevant to the 10 consecutive assessment years for which the lessor opts for claiming deduction section 80LA.

The lessee shall not deduct tax on payment made or credited after the date of receipt of Form no. 1 and furnish the particulars of all the payments made to the lessor on which tax has not been deducted in the TDS statement.

The exemption shall be available during the said previous years relevant to the ten consecutive assessment years as declared by the lessor in Form No. 1 for which deduction under section 80LA is being opted. The lessee shall be liable to deduct tax on payment of lease rent for any other year.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-57-2023.pdf>

❖ **Business and Economics News**

Under the Startup India initiative, 'Action Plan' for Startups unveiled to create a vibrant startup ecosystem in the country (August 02, 2023)

In order to build a strong ecosystem for nurturing innovation, startups and encouraging private investments in the startup ecosystem of the country, the Government launched the Startup India initiative on 16th January 2016.

Startup India is an initiative of the Government and not a Scheme. As per eligibility conditions prescribed under G.S.R. notification 127 (E) dated 19th February 2019, entities are recognized as 'startups' under Startup India initiative by the Department for Promotion of Industry and Internal Trade (DPIIT). Since the launch of the Startup India initiative in 2016, DPIIT has recognised 98,119 entities as startups as on 30th April 2023.

In order to meet the objectives of the initiative, the Government unveiled an Action Plan for Startups comprising of schemes and incentives envisaged to create a vibrant startup ecosystem in the country. The Action Plan comprises of 19 action items spanning across areas such as "Simplification and handholding", "Funding support and incentives" and "Industry-academia partnership and incubation".

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1945152>

❖ **Market Watch**

Stock Market Indices as on 03.08.2023

S & P BSE Sensex	65240.68 (-542.10)
Nifty 50	19381.65 (-144.90)

Foreign Exchange Rates as on 02.08.2023

(<https://www.geojit.com/currency-futures>)

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
82.25	90.59	105.69	0.58

❖ **Consumer Protection Law**

Consumer Protection Act, 2019 to strengthen provisions for consumer protection (August 02, 2022)

To further strengthen the provisions for consumer protection especially in the new era of globalization, online platforms, e-Commerce markets etc., the Consumer Protection Act, 2019 was enacted to replace the Consumer Protection Act 1986. It inter-alia, provides for improved protection for consumers involved in online transactions. The Consumer Protection Act 2019 has widened the scope of the definition of "consumer" to include persons who buy or avail of goods or services online or through electronic means which was not present in the Consumer Protection Act 1986. The Consumer Protection Act 2019 has also included definition of advertisement as any audio or visual publicity, representation, endorsement or pronouncement made by means of, inter-alia, electronic media, internet or website.

Under the provisions of the Consumer Protection Act, 2019, a Central Consumer Protection Authority (CCPA) has been established w.e.f 24.07.2020 to regulate matters, inter alia, relating to false or misleading advertisements which are prejudicial to the interests of public and consumers as a class.

The CCPA has notified the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 on 9th June, 2022 with the objective to curb misleading advertisements and protect the consumers, who may be exploited or affected by such advertisements. As per these guidelines, due diligence is required for endorsement of advertisements so that any such endorsement in an advertisement must reflect the genuine, reasonably current opinion of the individual, group or organisation making such representation and must be based on adequate information about, or experience with, the identified goods, product or service and must not otherwise be deceptive. Further, these guidelines state that where there exists a connection between the endorser and the trader, manufacturer or advertiser of the endorsed product that might materially affect the value or credibility of the endorsement and the connection is not reasonably expected by the audience, such connection shall be fully disclosed while making the endorsement.

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1945167#:~:text=The%20Consumer%20Protection%20Act%202019,the%20Consumer%20Protection%20Act%201986>

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu.

Disclaimer : Although due care and diligence have been taken in preparation and uploading this info capsule, the Institute shall not be responsible for any loss or damage, resulting from any action taken on the basis of the contents of this info capsule. Anyone wishing to act on the basis of the material contained herein should do so after cross checking with the original source.