

**SKJ iCAN**

# Newsletter

January 2022

---

## DEAR READERS:

Greetings!!!

We wish You and all your near and dear ones a very Happy, Healthy and Fulfilling New Year 2022!!!

On export front, according to data published by the Government, India's merchandise export surged to USD 37.29 billion in December 2021, the highest ever monthly achievement. This is good sign that economy has started picking up its momentum

The Reserve Bank of India Monetary Policy Committee (MPC) has maintained status quo on key interest rates in its December bi-monthly for the ninth consecutive time. About inflation, the RBI Governor said, FY 22, inflation target is maintained at 5.3 percent, which consisted of 5.1% in Q3FY 22 and 5.7% in Q4FY22 with risks broadly balanced.

All the taxpayers whose accounts are subject to tax audit to upload their tax audit reports on or before 15<sup>th</sup> January 2022 and where TP provisions are applicable on or before 31<sup>st</sup> January 2022. We urge all of you to upload tax audit reports well within time. As of now, there is no news for any extension.

The Government has extended the due date for filing GSTR 9, 9C the FY 2020-21 and extended the last date for submitting applications of the SEIS claims

We look forward to your feedback on the contents of our Newsletter or you can email your suggestions at [itskj@skj.ican.in](mailto:itskj@skj.ican.in)

Stay Safe and healthy!!!

Jai Hind

With Warm Regards

Team **SKJ iCAN**

“Health is the greatest gift, contentment the greatest wealth, faithfulness the best relationship” - [Buddha](#)

# What's Inside?

## DIRECT TAX

- 1 Insurance plan qualifying u/s 80C notified
- 2 CBDT notifies protocol amending DTAA with Kyrgyz Republic
- 3 CBDIT- issued instructions wrt uploading information on implementation of Risk Management Strategy for issuance of notice u/s 148 of the Act
- 4 Rule 21AK- Inserted
- 5 E-Verification Scheme 2021

## GOODS & SERVICE TAX

- 1 Tenure of Anti-Profitteering Authority extended to 5 years
- 2 Amendments in GST DRC - 03
- 3 Clarification on – service supplied by Restaurants through e-commerce operators
- 4 Mandatory Aadhaar authentication for GST Refund/Revocation application

## RERA

- 1 Submission of Forms to the Scheduled Bank operating separate account
- 2 MahaRERA Authority (General) (Amendment) Regulations 2021

## COMPANY LAW

- 1 MCA –Clarification on holding AGM by VC/other audio visual means
- 2 MCA-Extension time for passing ordinary/special resolutions by companies by holding EGM through VC/other audit visual means

## COMPLIANCE CALENDAR FOR JANUARY 2022



**Extended Due Date for filing Tax Audit Reports under I T Act - 15<sup>th</sup> January 2022**

**INCOME TAX****1] Central Government notifies Insurance plan qualifying under Section 80C**

In exercise of the powers conferred by clause (xii) of sub-section (2) of Section 80C of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the Jeevan Akshay-VII Plan of the Life Insurance Corporation of India, as filed by that Corporation with the Insurance Regulatory and Development Authority, as the annuity plan of the Life Insurance Corporation of India for the purposes of the said clause for the assessment year 2021-22 and subsequent years.

**[Source: NOTIFICATION S. O. 5056(E) [NO. 134/2021/F. NO. 178/4/2021-ITA-I]**

**2] CBDT notifies protocol amending DTAA with Kyrgyz Republic**

The Protocol, amending the Agreement between the Government of the Republic of India and the Government of the Kyrgyz Republic for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income which was signed at New Delhi on 13th April, 1999, has been signed at Bishkek, Kyrgyz Republic on 14th June, 2019, as set out in the Annexure. The date of entry into force of the said amending Protocol is the 22nd October, 2020, being the date of the later notification of the completion of the procedures required by the respective laws for the entry into force of the said amending Protocol, in accordance with Article 3 of the said amending Protocol.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961, the Central Government hereby notifies that all the provisions of the said amending Protocol shall have effect in the Union of India.

**[Source: NOTIFICATION S.O. 5094(E) [NO.135/2021/F. NO. 503/07/95-FTD-II]**

**3] CBDT issues instructions to subordinate authorities for uploading information on Insight portal for implementation of Risk Management Strategy for issuance of notice under section 148 of the Act.**

The Finance Act, 2021, has amended section 148 for the initiation of reassessment proceedings. As per the amended provisions, the information which has escaped assessment has been defined to include the two categories of information, i.e.,

1. The information which is flagged in accordance with the risk management strategy formulated by the board; and
2. Final audit objections raised by the C&AG.

In order to implement risk management strategy, the Central Board of Direct Taxes (CBDT) has directed that the Assessing Officers (AOs) shall identify the following

information for uploading on Verification Report Upload (VRU) functionality on insight portal:

- a) Information from any other Govt. agency/law enforcement agency
- b) Information arising out of internal Audit objections
- c) Information received from any Income-tax Authority including the AO himself
- d) Information arising out of search or survey action
- e) Information arising out of FT&TR references
- f) Information arising out of any order of court has an impact on income of assessee or any other assessee
- g) Case involving additions on a recurring issue of law or fact:
  1. Exceeding Rs. 25 lakhs in eight metro cities while at other charges, quantum of addition should exceed Rs. 10 lakhs;
  2. Exceeding Rs. 10 crores in transfer pricing cases.

However the addition referred in point (g) shall be such addition which:

1. Has become final as no further appeal has been filed against the assessment order; or
2. Has been confirmed at any stage of appellate process in favour of revenue and assessee has not filed further appeal; or
3. Has been confirmed at any stage of appellate process in favour of revenue and assessee has not filed further appeal; or

The AO shall upload information pertaining to Assessment Year 2015-16 and Assessment Year 2018-19, which require action under section 148.

**[Source: INSTRUCTION F. NO. 225/135/2021/ITA-II, DATED 10-12-2021]**

#### **4] Insertion of Rule 21AK.**

A new rule 21AK which deals with 'Conditions for the purpose of clause (4E) of section 10' has been inserted & reads as- The income accrued or arisen to, or received by, a non-resident as a result of transfer of non-deliverable forward contracts under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely:

- i. The non-deliverable forward contract is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and
- ii. Such contract is not entered into by the non-resident through or on behalf of its permanent establishment in India.

(2) The offshore banking unit shall ensure that the condition provided in clause (ii) of sub-rule (1) is complied with.

**[Source: NOTIFICATION G.S.R. 851(E) [NO. 136/2021/F.NO. 370142/53/2021-TPL (PART-II)], DATED 10-12-2021]**

### **5] E-VERIFICATION SCHEME, 2021**

The Central Board of Direct Taxes (CBDT) on December 13, 2021 has issued the e-Verification Scheme, 2021. It shall come into force on December 13, 2021.

The following has been introduced namely: -

- i. Rule 4 which specify “Electronic Collection and Verification” has been inserted namely:-  
“The Commissioner of Income-tax (e-Verification) shall collect the information referred to in sub-paragraph (1) of paragraph 3, in accordance with the procedure laid down by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be.”
- ii. Rule 5 which specify “Random Allocation of information” has been inserted namely: -  
“The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall, with the approval of the Board, devise a process to randomly allocate or transfer the information, referred to in sub-paragraph (6) of paragraph 4, to the Prescribed Authority.”
- iii. Rule 6 which specify “Issue and service of notice” has been inserted namely: -  
“For the purpose of verification of information, the Prescribed Authority shall issue notice to a person requiring him to furnish information or documents as necessary for such verification.”
- iv. Rule 8 which specify “No personal appearance” has been inserted namely: -  
“No person shall be required to appear personally or through authorised representative before the Prescribed Authority in connection with any proceedings.”
- v. Rule 9 which specify “Communication exclusively by electronic mode” has been inserted namely: -  
“all communications between the Commissioner of Income-tax (e-Verification) and various authorities from whom the information is received, shall be in the electronic mode.”

[Source - NOTIFICATION S.O. 5187(E) [NO. 137 /2021/ F.NO. 370142/57/2021 TPL (PART-I)], DATED 13-12-2021]

## GOODS AND SERVICE TAX

### 1] Tenure of Anti-Profiteering Authority extended to five years

With effect from 30.11.2021, rule 137 of the CGST Rules, 2017 has been amended to extend the tenure of National Anti-Profiteering Authority from existing 4 years to 5 years. Thus, the Authority shall cease to exist after the expiry of five years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

### 2] Amendments made in GST DRC-03

Following changes have been made in Form GST DRC-03:

- i. The heading of the Form has been changed as under:

“Intimation of payment made voluntarily or made against the SCN or statement or intimation of tax ascertained through FORM GST DRC-01A”
- ii. The causes of payment in item no. 3 have been expanded. Now, the drop down list will provide “Audit, inspection or investigation, voluntary, SCN, annual return, reconciliation statement, scrutiny, intimation of tax ascertained through FORM GST DRC-01A, Mismatch (Form GSTR-1 and Form GSTR-3B), Mismatch (Form GSTR-2B and Form GSTR-3B), others (specify)”
- iii. Item no. 5 which require to provide the “details of SCN, if payment is made within 30 days of its issue” has been amended to further include “scrutiny, intimation of tax ascertained through Form GST DRC-01A, audit, inspection or investigation, others (specify)”.
- iv. A separate column mentioning “Fee” has been inserted in the table of serial No. 7 which requires the details of payments made.

**[Notification No. 37/2021 – Central Tax dt. 01.12.2021]**

### 3] CBIC clarifies GST on service supplied by restaurants through e-commerce operators

In 45th meeting of the GST Council held on 17th September, 2021 it was recommended to notify 'Restaurant Service' under section 9(5) of the CGST Act, 2017. Accordingly, the tax on supplies of restaurant service supplied through e-commerce operators shall be

paid by the e-commerce operator. In this regard notification No. 17/2021 dated 18.11.2021 has been issued.

Responding to the representations requesting for clarification regarding modalities of compliance to the GST laws in respect of supply of restaurant service through e-commerce operators (ECO), the CBIC has issued Circular No. 167 / 23 /2021 -GST clarifying the following:

Query: Would ECOs have to still collect TCS in compliance with section 52 of the CGST Act, 2017?

Answer: As 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from the 1st January, 2022, through ECO. Accordingly, the ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present.

Query: Would ECOs have to mandatorily take a separate registration w.r.t supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account?

Answer: As ECOs are already registered in accordance with rule 8 (in Form GST-REG01) of the CGST Rules, 2017 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017.

Query: Would the ECOs be liable to pay tax on supply of restaurant service made by unregistered business entities?

Answer: Yes. ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.

Query: What would be the aggregate turnover of person supplying 'restaurant service' through ECOs?

Answer: It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs. Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover.



Query: Can the supplies of restaurant service made through ECOs be recorded as inward supply of ECOs (liable to reverse charge) in GSTR 3B?

Answer: No. ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge).

Query: Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'?

Answer: ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (ITC). The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act. It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO).

Query: Can ECO utilize its Input Tax Credit to pay tax w.r.t 'restaurant service' supplied through the ECO?

Answer: No. As stated above, the liability of payment of tax by ECO as per section 9(5) shall be discharged in cash.

Query: Would supply of goods or services other than restaurant service' through ECOs be taxed at 5% without ITC?

Answer: ECO is required to pay GST on services notified under section 9(5), besides the services/other supplies made on his own account. On any supply that is not notified under section 9(5), that is supplied by a person through ECO, the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies. Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.

Query: Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases?

Answer: Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to

collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.

Query: Who will issue invoice in respect of restaurant service supplied through ECO - whether by the restaurant or by the ECO?

Answer: The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO

Query: Clarification may be issued as regard reporting of restaurant services, value and tax liability etc. in the GST return

Answer: A number of other services are already notified under section 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR-3B. The ECO may, on services notified under section 9 (5) of the CGST Act, 2017, including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being. Besides, ECO may also, for the time being, furnish the details of such supplies of restaurant services under section 9(5) in Table 7A(1) or Table 4A of GSTR-1, as the case maybe, for accounting purpose.

Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies of restaurant services made through ECOs in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.

**[Circular No. 167 / 23 /2021 –GST dated 17<sup>th</sup> December 2021]**

#### **4] Mandatory Aadhaar authentication for GST Refund/Revocation application effective from 01.01.2022**

The following amendments made vide **Notification No. 35/2021 – Central Tax dt. 24.09.2021** shall be applicable from **January 1, 2022**:

- i. Newly inserted rule 10B of the CGST Rules, 2017 making Aadhaar authentication mandatory for registered persons for filing application for revocation of cancellation of registration and refund application.
- ii. Amendments made in rule 23 (revocation of cancellation of registration), rule 89 (application for refund of tax, interest, penalty, fees or any other amount) and rule 96 (refund of integrated tax paid on goods or services exported out of India) consequent to the insertion of rule 10B making Aadhaar authentication under rule 10B mandatory.

**[Notification no.38/3021dated 21<sup>st</sup> December 2021]**

**1. Submission of Forms to the Scheduled Bank operating separate account**

As per the Order issued, all the Promoters henceforth will be required to submit Form 1, Form 2, and Form 3 to the scheduled bank **at the time of every withdrawal of funds from the separate bank account**

**[Order No. 39/2021 dated 28<sup>th</sup> December 2021]**

**2. Maharashtra Real Estate Regulatory Authority (General) (Amendment) Regulations 2021**

Vide Gazette Notification, certain amendments have been made in rules and regulations. Rule 3A has now been amended wherein Quality Assurance Certificate in Form 2A, to be submitted at the end of year. Forms 1 (Architect Certificate), 2 (Engineer's Certificate), 3 (Chartered Accountant Certificate), 4 & 5 (Annual Report on Statement of Accounts) prescribed have been revised and are **applicable from with immediate effect** from the date of publication in the Official Gazette. **Form 3 and Form 5 have undergone significant changes**. Now onwards, the promoters are required to give details as to estimated means of finance for construction of the project vis a vis actual means of finance for the construction of the project. All certificates to be certified as "Accepted and Agreed by the Promoters" with duly signed by the Promoters.

**[Published on MahaRERA website on 29-12-2021]**

**COMPANY LAW****1] MCA clarifies on holding AGM by Video Conferencing/ other audio visual means**

MCA vide general circular No. 20/2020 dated 5th May 2020 and general circular No. 02/2021 dated 13.01.2021 had allowed the companies whose AGMs were due in Year 2021 to conduct their AGMS on or before 30.06.2022 as laid down in the circulars.

MCA vide General Circular No. 19 of 2021 dated 08.12.2021 has clarified that this should be considered as extension of time for holding AGMs by the companies who have not adhered to relevant timelines and shall be liable to penal provisions as applicable.

**[General Circular 19/2021 dated 8<sup>th</sup> December 2021]**

**2] MCA extends time for passing ordinary / special resolutions by companies by holding EGMs through video conferencing (VC) or other audio visual means (OAVM) till 30.06.2022**

The MCA has issued several circulars for providing clarifications on the issue of passing of ordinary and special resolutions by companies by holding extraordinary general meetings(EGMs) through video conferencing (VC) or other audio visual means (OAVM), as under:

General Circular No. 14/2020 dated 8th April, 2020

General Circular No. 17/2020 dated 13th April, 2020

General Circular No.22/2020 dated 15.06.2020

General Circular No.33/2020 dated 28.09.2020

General Circular No. 39/2020 dated 31.12.2020

General Circular No. 10/2021 dated 23.06.2021

MCA Vide General Circular No. 20/2021 dated 8th Dec 2021 has issued further clarification on the subject.

MCA has further extended the time to allow companies to conduct their EGMs through VC or OAVM or transact items through postal ballot in accordance with the framework provided in the aforesaid Circulars up to 30th June 2022.

All other requirements provided in the above Circulars shall remain unchanged

**[General circular 20/2021 Dated 8<sup>th</sup> December 2021]**

“Life is like riding a bicycle. To keep your balance, you must keep moving” --  
**Albert Einstein**

### COMPLIANCE CALENDAR FOR JANUARY 2022

Due Date	Particulars
	<b>INCOME TAX</b>
7	TDS/TCS Deposit - for the month of December 2021
14	Issue of TDS Certificate for tax deducted u/s 194IA/IB/N in November 2021
15	Extended Due date for filing report u/s 44AB for AY 21-22
15	Quarterly Statement of TCS for the quarter ending December 31,2021
15	Quarterly Statement – Foreign Remittances ( to be furnished by Authorised Dealer in Form 15CC
15	Furnishing of declarations received in for the quarter ending December 31, 2021
30	Quarterly TCS Certificate-quarter ending December 31, 2021
31	Furnishing of Transfer Pricing Report u/s 92E in Form 3CEB
31	Extended Due date for filing report u/s 44AB for AY 21-22 in case of an assessee who is required to furnish report pertaining to international or specified domestic transactions u/s 92E
	<b>PF/ESI</b>
15	PF Contribution – December month
15	ESI Contribution- December month
25	PF return filing for December month
	<b>MVAT</b>
21	Due date for furnishing Monthly Return & Payment- December 2021 ( Monthly)
	<b>GOODS &amp; SERVICE TAX</b>
10	GSTR-7 for December 21
10	GSTR-8 for December 2021.
11	GSTR 1 for December 2021 – Monthly
13	GSTR 6 for December 2021- Input Service Distributor
13	GSTR 1 for December 2021- QRMP Scheme
18	CMP 8- for quarter October 2021 to December 2021- Composition Scheme
20	GSTR 3B for December 2021- Monthly
20	GSTR 5 & 5A -Non-resident taxable person for December 2021.
20	GSTR 3B- for the quarter October 21 to December 2021- QRMP Scheme