

ProXcel Advisory Services Private Limited*Delivering Professional Excellence***TAX NEWSLETTER****Edition: June'2020****Volume 2, Issue 5**

Summary of Regulatory updates for May'2020



PROFICIENTLY ADVISING
GLOBAL BUSINESSES
FOR TRADE IN INDIA

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1. Direct Tax Updates

Notifications, Circulars & Press Releases:-

1.1 Substitution of Rule 44G

Rule 44G: Application for seeking to give effect to the terms of the procedure for giving effect to the terms of any agreement for granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this act

Substituted Rule 44G:

Application seeking to give effect to the terms of any agreement for granting of relief in respect of double taxation or avoidance of double taxation entered by the Central Government and the procedure for giving effect to the decision under the Agreement-

1. An assessee (Indian Resident) aggrieved by any action of the tax authorities of any country or specified territory outside India for the reason that action taken is not in accordance with the terms of agreement with such other country or specified territory, he may make an application to the Competent Authority in India seeking to invoke the mutual agreement procedure in **Form No. 34F**.
2. Where a reference is received from the competent authority of any country or specified authority outside India under any agreement with that country with regard to any action taken by income tax authority in India, the Competent Authority in India shall convey his acceptance or otherwise for taking up the reference under mutual agreement procedure to the competent authority of the other country or specified territory.
3. The competent authority in India shall call for the relevant records and additional document from the income-tax authorities or the assessee or his authorized representative in India, or have a discussion to understand actions taken by the income-tax authorities in India or outside that are not in accordance with DTAA.
4. The Competent Authority in India shall arrive at a mutually agreeable resolution of the tax disputes within period of twenty-four months.
5. If the mutual agreement procedure is invoked on account of action taken by any income-tax authority in India, the resolution arrived shall not result in decreasing the income or increasing the loss of the assessee in India, as declared by him in the return of income of that PY.
6. The arrived resolution should be communicated to assessee in writing
7. The assessee shall communicate his acceptance/non-acceptance of the resolution within thirty days of receipt of the communication.
8. His acceptance should be accompanied by proof of withdrawal of appeal pending on the issue for which resolution has been arrived.

9. On receipt of acceptance, Competent Authority in India shall communicate the resolution derived and its acceptance by assessee to Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or Director General, as the case may be, who shall forward it to the Assessing Officer (AO).
 10. On receipt of communication, AO shall give effect to resolution by way of order in writing within 1 month from end of month in which communication has been received and intimate assessee about tax payable.
 11. Assessee shall pay the tax within time limit prescribed and submit the proof to AO who will then withdraw pending appeal, if filed by him/income tax authority.
 12. The amount of tax, penalty determined shall be adjusted in accordance with the resolution arrived under sub-rule (4).
- **Rule 44H** providing for Mutual Agreement Rules has been omitted.
 - **Form No. 34F has been revised**- Form of application for an assessee, resident in India, seeking to invoke mutual agreement procedure provided for in agreements with other countries or specified territories.

Refer Link for Form 34F

https://www.incometaxindia.gov.in/communications/notification/notification23_2020.pdf

_Notification No. 23/2020 dated 6th May, 2020

1.2 Considering 'Shri Ram Janambhoomi Teerth Kshetra' as an eligible organization to claim deduction u/s 80G

As per section 80G(2)(b) of the Income-tax Act, 1961, a taxpayer is entitled to deduction from his taxable income on account of donations paid for renovation or repair of any such temple, mosque, gurdwara, church notified by the Central Government to be of historic, archaeological or artistic importance or to be a renowned place of public worship.

CBDT has notified 'Shri Ram Janambhoomi Teerth Kshetra' (PAN: AAZTS6197B) as an eligible organisation to claim deduction under section 80G(2)(b) from F.Y. 2020-2021 onwards.

_Notification No. 24/2020 dated 8th May, 2020

1.3 Extension of applicability of safe Harbour Rules

1. As per the existing law, Safe Harbour Rules (SHR) for International Transactions were applicable only up to AY 2019-20, now the applicability of SHR has been extended to AY 2020-21 via insertion of sub rule (3B)
2. Safe Harbour Rules (SHR) option exercised in AY 2020-21 would be valid only for 1 year i.e. AY 2020-21 and not for the period specified in sub-rule 10TE (2). The same has been restricted via insertion of proviso under sub rule 2 of Rule 10TE.
3. A clerical error has also been rectified in Form no. 3CEFA.

Note: CBDT has certified that no person is being adversely affected by giving retrospective effect to these rules

Notification No. 25/2020 dated 20th May, 2020 shall come into force from 1st April, 2020

1.4 New provisions for determining remuneration to be paid by the eligible fund to a fund manager:

CBDT has amended Rule 10V (Guidelines for application of section 9A). Section 9A contains provisions related to certain activities not to constitute business connection in India.

- 1. Insertion of sub –rule 11 to provide for non- application of** sub-rule (5) to sub-rule (10) containing provisions relating to determination of the arm's length price in respect of any remuneration paid by the eligible investment fund to an eligible fund manager as per Section 9A(5)(m) from 1st April, 2019 onwards.
- 2. Insertion of sub-rule 12** providing manner for calculation of amount of remuneration to be paid by the fund to a fund manager, which is as under:
 - i. In case where the fund is Category-I foreign portfolio investor, the amount of remuneration shall be 0.10 per cent of the asset under management.
 - ii. In other cases, the amount of remuneration shall be, -
 - o 0.30 percent of the asset under management; or
 - o 10 percent of profits derived by the fund in excess of the specified hurdle rate from the fund management activity undertaken by the fund manager, where it is entitled only to remuneration linked to the income or profits derived by the fund; or
 - o 50 per cent. of the management fee, whether in the nature of fixed charge or linked to the income or profits derived by the fund from the management activity undertaken by the fund manager, paid by such fund in respect of the fund management activity undertaken by the fund manager as reduced by the amount incurred towards operational expenses including distribution expenses, if any.

Provided that the provisions of this sub-clause shall apply only in case the fund is also making payment of management fee to any other fund manager.

Provided further that in case where the amount of remuneration is lower than the amount arrived at under clause (i) or clause (ii), the fund may, at its option, apply to the Member, Central Board of Direct Taxes seeking approval of the Board for that lower amount to be the amount of remuneration, and, on receipt of such application the Board may, after satisfying itself considering the relevant facts, approve such lower amount to be the amount of remuneration.

3. CBDT has also notified new forms and Annexures-

- **Form No. 3CEJA-** Report from an accountant to be furnished for purpose of section 9A regarding fulfilment of certain conditions by an eligible investment fund as per rule 10V (13)
- **Annexure to Form No. 3CEJA –** Particulars relating to fund management activity required to be furnished for the purposes of section 9A of the Income-tax Act, 1961
- **Form No 3CEK-** Statement to be furnished by an eligible investment fund to the Assessing Officer under Rule 10VB

Notification 29/2020 dated 27th May, 2020

1.5 Substitution of Form 26AS with Annual Information Statement

1. **Rule 31AB has been omitted which regulate the processing of Form 26AS. Now, Rule 114I has been inserted (Annual Information statement) which is as under:**

It provides that the Principal Director General of Income-tax / Director General of Income-tax or any person authorized by him shall under section 285BB of the Income-tax Act, 1961, upload in the registered account of the assessee an **annual information statement** in Form No. 26AS containing the specified information:-

New Form-26AS has been introduced from FY 2020-21 shall contain the following information:

S No	Nature of Information
1	Information relating to tax deducted or collected at source
2	Information relating to specified financial transaction
3	Information relating to payment of taxes
4	Information relating to demand and refund
5	Information relating to pending proceedings
6	Information relating to completed proceedings
7	Any other information in relation to sub-rule (2) of rule 114-I

Notification 30/2020 dated 28 May, 2020 shall come into force with effect from the 1st day of June, 2020

1.6 Changes in Rules relating to ITR Forms

1. **Rule 12 has been amended to provide applicability of {FORM SAHAJ} ITR -1 to following persons:-**
 - If person owns a house property in joint-ownership with two or more persons
 - If person is required to furnish a return of income under seventh proviso to section 139(1)
2. **If person owns a house property in joint-ownership with two or more persons, he/she can also compute income under presumptive taxation i.e. section 44AD, 44ADA & 44AE and file Form SUGAM (ITR-4)**
3. **CBDT has also substituted new forms** for Form —Sahaj (ITR-1), Form ITR-2, Form ITR-3, Form Sugam (ITR-4), Form ITR-5, Form ITR-6, Form ITR-7 and Form ITR-V.

Notification No. 31/2020 dated 29th May, 2020

1.7 Clarification in respect of residency under section 6 of the Income-tax Act, 1961:-

Representations have been received stating that there are **number of individuals** who had come on a visit to India during the previous year 2019-20 and **intended to leave India** before the end of the previous year **for maintaining their status as non-resident or not ordinary resident** in India. However, **due to declaration of the lockdown and suspension of international flights** owing to outbreak of Novel Corona Virus (COVID-19), they are **required to prolong their stay** in India. **Concerns have been**

expressed that this extra stay in India may make them a resident of India under section 6 of the Act.

To avoid genuine hardships, CBDT has decided that for the purpose of determining the residential status under section 6 of the Act during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22nd March, 2020, following should not be taken into account:-

- If he/she has been **unable to leave India** on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to 31st March, 2020.
- If he/she has been **quarantined in India on account of Novel Corona Virus** (Covid-19) on or after 1st March, 2020 and has departed on an evacuation flight on or before 31st March, 2020 or has been unable to leave India on or before 31st March, 2020, his period of stay from the beginning of his quarantine to his date of departure or 31st March, 2020, as the case may be.
- If he/she has **departed on an evacuation flight on or before 31st March, 2020**, his period of stay in India from 22nd March, 2020 to his date of departure.

_Circular No. 11/2020 dated 8th May, 2020

1.8 Clarifications in respect of prescribed electronic modes under section 269SU of the Income-tax Act, 1961:-

Previously, CBDT has notified to implement mandatory facility for payment through the prescribed electronic modes namely Debit Card powered by RuPay, Unified Payments Interface (UPI) (BHIM-UPI) and Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code), but representations have been received stating that **requirement of mandatory facility for payments through the prescribed electronic modes is generally applicable in B2C (Business to Consumer) businesses**, which directly deal with retail customers. Moreover, since the prescribed electronic modes have a maximum payment limit per transaction or per day they are **not so relevant to B2B (Business to Business) businesses, which generally receive large payments** through other electronic modes of payment such as NEFT or RTGS. **Mandating such businesses to provide facility for accepting payments through prescribed electronic modes would cause administrative inconvenience and impose additional costs.**

CBDT has hereby clarified that provisions of section 269SU of the Act shall not be applicable to a specified person **having only B2B transactions (i.e. no transaction with retail customer/consumer)** if at least 95% of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts **are by any mode other than cash.**

_Circular No. 12/2020 dated 20th May, 2020

1.9 Press Release dated 13th May, 2020

Considering the current situation of and to improve cash flows, Finance minister has made reduction in rates of Tax Deduction at Source (TDS) & Tax Collection at Source (TCS) for the period 14th May 2020 to 31st March 2021 which are as follows:

Revised TDS Rate chart

S. No.	Section	Nature of Payment	Existing rates of TDS	Reduced rate of TDS
1.	193	Interest on securities	10%	7.5%
2.	194	Dividend		
3.	194A	Interest other than interest on Securities		
4.	194C	Payment of contractors and sub-contractors	1% (Individuals/HUF) 2% (Others)	0.75% (Individuals/HUF) 1.5% (Others)
5.	194D	Insurance Commission	5%	3.75%
6.	194DA	Payment in respect of life insurance policy		
7.	194EE	Payments in respect of deposits under National Savings Scheme	10%	7.5%
8.	194F	Payments on account of re-purchase of Units by Mutual Funds or UTI	20%	15%
9.	194G	Commission, prize etc., on sale of lottery tickets	5%	3.75%
10.	194H	Commission or brokerage		
11.	194-I(a)	Rent for plant and machinery	2%	1.5%
12.	194-I(b)	Rent for immovable property	10%	7.5%
13.	194-IA	Payment for acquisition of immovable property	1%	0.75%
14.	194-IB	Payment of rent by individual or HUF	5%	3.75%
15.	194-IC	Payment for Joint Development Agreements	10%	7.5%
16.	194J	Fee for professional or technical Services (FTS), Royalty, etc.	2% FTS, certain royalties, call centre) 10% (others)	1.5% (FTS, certain royalties, call centre) 7.5% (others)

17.	194K	Payment of dividend by Mutual Funds	10%	7.5%
18.	194LA	Payment of compensation on acquisition of immovable Property		
19.	194LBA(1)	Payment of income by Business trust		
20.	194LBB(i)	Payment of income by Investment Fund		
21.	194LBC(1)	Income by securitization Trust	25% (Individual/HUF) 30% (Others)	18.75% (Individual/HUF) 22.5% (Others)
22.	194M	Payment to commission, brokerage etc. by Individual and HUF	5%	3.75%
23.	194-O	TDS on e-commerce participants	1% (with effect from 1 st October 2020)	0.75%

Revised TCS Rate chart:

S. no.	Section	Nature of Payment	Existing rates of TCS	Reduced rate of TCS
1.	206C(1)	Sale of		
		(a) Tendu Leaves	5%	3.75%
		(b) Timber obtained under a forest Lease	2.5%	1.875%
		(c) Timber obtained by any other Mode		
		(d) Any other forest produce not being timber/tendu leaves		
		(e) scrap		
		(f) Minerals, being coal or lignate or iron ore	1%	0.75%
2.	206C(2)	Grant of licence, lease, etc. of		
		(a) Parking lot	2%	1.5%
		(b) Toll Plaza		
		(c) Mining and quarrying		

3.	206C(1F)	Sale of motor vehicle above Rs.10 Lakh	1%	0.75%
4.	206C(1H)	Sale of any other goods	0.1%*	0.075%

* It will be effective from 1st October 2020

1.10 Press Release dated 28th May, 2020

Another step by the Income-tax department towards Digital India creating further ease of compliance for taxpayers is launching of facility of instant Permanent Account No. (PAN) on real time basis through Aadhaar based e-KYC

The process of applying for instant PAN is very simple:-

- The instant PAN applicant is required to access the e-filing website of the Income Tax Department to provide her/his valid Aadhaar number and then submit the OTP received on her/his Aadhaar registered mobile number.
- On successful completion of this process, a 15-digit acknowledgment number is generated.
- If required, the applicant can check the status of the request anytime by providing her/his valid Aadhaar number and on successful allotment, can download the e-PAN.
- The e-PAN is also sent to the applicant on her/his email id, if it is registered with Aadhaar.

1.11 New procedure for registration, approval, etc. under Income-tax Act of not-for-profit entities Deferred to 1st October, 2020

Various representations were received expressing concerns over the implementation of the new procedure from 1st June, 2020 due to the outbreak of novel corona virus (COVID-19) and consequent lockdown. There have been a number of requests to defer the applicability of the new procedure.

In view of the current situations and economic crisis, the CBDT has decided that the implementation of new procedure for approval/ registration/notification of certain entities **shall be deferred to 1st October, 2020.**

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Income Tax Case laws

Sanjay Sawhney vs PCIT (Delhi High Court)

Where assessee succeeded before CIT(A) in ultimate analysis and was, thus, not an aggrieved party, in Revenue's appeal, ITAT committed a mistake by not permitting assessee (respondent before it) to support final order of CIT(A) by assailing findings of CIT(A) on issues that had been decided against him

Rule 27 embodies a fundamental principal that a Respondent who may not have been aggrieved by the final order of the Lower Authority or the Court, and therefore, has not filed an appeal against the same, is entitled to defend such an order before the Appellate forum on all grounds, including the ground which has been held against him by the Lower Authority, though the final order is in its favour.

Ashapura Minichem Ltd. vs DCIT (Mumbai Tribunal)

Where assessment, was completed under section 143(3), since there was no any material on record, assessment could not be reopened merely on basis of report of a Commission appointed by Central Government that there was under invoicing of exports by assessee.

Tata Industries Ltd vs DCIT (Mumbai Tribunal)

The satisfaction as required under section 14A(2), for invoking Rule 8D of 1962 Rules cannot be on basis of mechanism of said Rule itself, rather it has to be independent of Rule 8D of 1962 Rules

K. Srikanth vs ACIT (Chennai Tribunal)

Where in a company assessee's minor sons held 99% shares and assessee held only 125 shares, when entire shareholding was sold, sale proceeds would belong to minor sons of assessee and same was required to be brought to tax by invoking provisions for clubbing income of minors

DCIT vs JSW Ltd. (Mumbai Tribunal)

Where assessee had not earned any tax exempt income in relevant previous year, no disallowance under section 14A could have been made.

Anant Raj Ltd. vs ACIT (Delhi Tribunal)

If either the assessee has offered income or the Assessing Officer in the earlier assessment year has assessed the income under particular head which originally was assessable under different head, i.e., capital gain even though the same was liable to be assessed under the head business or profession, then there is no embargo either on Assessing Officer or on the assessee to show income or loss under head business or profession in subsequent year. The assessee can always point out in subsequent year in which it is claiming any deduction or loss, that income offered in earlier year was not shown under correct head and in this year same is assessable under correct head which is income or loss from business or profession. Thus, the claim regarding allowability of the business loss has to be determined by the Assessing Officer in year in which loss has been claimed in profit and loss account and assessment of corresponding income as capital gain in an earlier year will not be binding on the assessee and it is always open to assessee to point out that it is to be assessed under correct head, i.e. business.

Prestige Estate Projects (P.) Ltd. vs CIT (Karnataka High Court)

Where for previous year, revenue had accepted method of accounting followed by assessee-real estate developer and in light of ICAI guidance note of AS-7 as applicable to real estate developers, assessee itself had changed its method of accounting for subsequent year from Project Completion Method to Percentage Completion Method, in view of fact that effect was revenue neutral in assessment year in question, no addition could be made.

PNB Gilts Ltd. vs Ad. CIT (Delhi Tribunal)

Where in case of assessee, entire investment in assets yielding exempt income had been made out of interest free own funds, then no disallowance would be called for under rule 8D(2)(ii) and Assessing Officer would not be required to look into apportionment of expenses towards dividend income from shares held as stock in trade

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2. Indirect Tax Updates

Notifications, Circulars and Orders:-

2.1 Amendments made in CGST Rules, 2017

A registered person, during the period from the April 21, 2020 to June 30, 2020 can furnish the return under section 39 in Form GSTR-3B verified through electronic verification code (EVC)

Rule 67A has been inserted for nil return filers, i.e. for a registered person who is required to furnish a Nil return under section 39 in Form GSTR-3B for a tax period, any reference to electronic furnishing shall include the furnishing of the said return through a short messaging service using the registered mobile no. and the said return shall be verified by a registered mobile no. based one-time password (OTP) facility

—Notification No 38/2020 – Central Tax dated 5th May, 2020

2.2 Extension of validity of E-Way bills

The Government on the recommendation of GST council has extended the validity of E-way bills upto May 31, 2020 for the e-way bills generated under rule 138 of CGST Rules, 2017, on or before March 24, 2020 and its period of validity expires during the period March 20, 2020 to April 15, 2020.

—Notification No 40/2020 – Central Tax dated 5th May, 2020

2.3 Extension of Time Limits for filing GSTR-9 & 9C for FY 2018-19

The Commissioner, on recommendations of the Council, hereby extends the period for filing Form GSTR 9 & 9C till 30st September, 2020 for financial year 2018-19.

—Notification No 41/2020 – GST dated 5th May, 2020

2.4 New GST registration for corporate debtors undergoing Corporate insolvency resolution process

The Central Government, on recommendations of the council, hereby introduced that the said class of persons, with effect from the date of appointment of IRP/RP, be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each of the states or union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by June 30, 2020, whichever is later.

—Notification No. 39/2020-Central Tax dated 5th May, 2020

2.5 Clarification issued for challenges faced by taxpayers in implementation of the provision of Law:-

S. No	Issue	Clarification
1	It has been represented that the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.	Time limit required for obtaining registration by the IRP/RP in terms of special procedure has been extended. Accordingly, IRP/RP shall now be required to obtain registration within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.
2	Whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.	<ul style="list-style-type: none"> Corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP. Accordingly, it is clarified that IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).
3	Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration	The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.
4	A registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, inter-alia, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision.	<ul style="list-style-type: none"> Time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time. Notification no. 40/2017-Central Tax (Rate) dated 23.10.2017 was issued under powers conferred by section 11 of the CGST Act, 2017. The exemption provided in notification No. 35/2020-Central Tax dated

		<p>03.04.2020 is applicable for section 11 as well.</p> <ul style="list-style-type: none"> Accordingly, it is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30th June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.
5	Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of FORM GST ITC-04 for quarter ending March, 2020	From 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of FORM GST ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.

—Circular No.138/08/2020-Central Tax dated 6th May, 2020

2.6 Delhi High Court allows Form GSTR-3B rectification

Under the case of Bharti Airtel, the Delhi High court, in its judgments, has allowed to claim a refund of Rs. 923 crores on account of overpaying GST between July and September of 2017. The Delhi high court also directed the government to verify the rectified GSTR-3B form by Bharti and process the refund, if any, within two weeks.

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3 Companies Act Updates

3.1 Clarification on holding of annual general meeting (AGM) through video conferencing (VC) or other audio visual means

In view of the prevailing conditions in the country due to outbreak of COVID-19, MCA vide its Circular dated May 5, 2020 has allowed companies to conduct their AGM through VC or OAVM during the calendar year 2020, subject to fulfillment of the following requirements:

BASIS	Requirements
Matters to be transacted at AGM	Other than ordinary business, only those items which are considered to be unavoidable by the Board shall be transacted at such meeting
Circulation of Financial Statements and Reports of Auditors and Board or other documents required to be attached therewith	Such statements shall be sent only through email to the members, trustees for the debenture holders of any debentures issued by the company and to all other persons so entitled
Publication of newspaper advertisement	<p>Before sending notice of AGM and copies of financial statements, etc. a public notice by way of advertisement to be published at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated and having a wide circulation in that district and at least once in English language in an English newspaper (preferably both newspapers having electronic edition) specifying the following information:</p> <ol style="list-style-type: none"> 1. statement that the AGM will be convened through VC or OAVM 2. date and time of the AGM; 3. availability of notice of the meeting on the website of the company and the stock exchange, in case of a listed company; 4. the manner in which the members who are holding shares in physical form or who have not registered their email addresses with the company can cast their vote through remote e-voting or through the e-voting system during the meeting; 5. the manner in which the persons who have not registered their email addresses with the company can get the same registered with the company; 6. the manner in which the members can give their mandate for receiving dividends directly in their bank accounts through Electronic Clearing Service (ECS) or any other means; 7. any other detail considered necessary by the company
Dispatch of dividend warrants	If the company is unable to pay the dividend to any shareholder by the electronic mode, due to non-availability of the details of the bank account, the company shall upon normalization of the postal services, dispatch the dividend warrant or cheque to such shareholder by post

Meeting with physical presence of Members in some cases	<p>In case the company has received permission from the relevant authorities to conduct its AGM at its registered office, or at any other place as provided under Section 96 of the Companies Act, 2013, after following any advisories issued from such authorities, the company may in addition to holding of such meeting with physical presence of some members, also provide the facility of VC or OAVM, so as to allow other members of the company to participate in such meeting.</p> <p>All members who are physically present in the meeting as well as the members who attend the meeting through the facility of VC or OAVM shall be reckoned for the purpose of quorum under section 103 of the Act. All resolutions shall continue to be passed through the facility of e-voting system.</p>
Conduct of AGM	<p>For companies which are required to provide e-voting facility: Such companies are entitled to conduct their AGM through VC or OAVM</p> <p>For companies which are not required to provide e-voting facility: Only those companies which have in its records, the e-mail address of at least half of its total number of members, who:</p> <ol style="list-style-type: none"> in case of a Nidhi, hold shares of more than one thousand rupees in face value or more than one per cent of the total paid-up share capital, whichever is less; in case of other companies having share capital, who represent not less than seventy-five per cent of such part of the paid-up share capital of the company as gives a right to vote at the meeting; in case of companies not having share capital, who have the right to exercise not less than seventy-five per cent of the total voting power exercisable at the meeting. <p><i>Such companies shall take all reasonable steps to register the e-mail ID of all persons who have not registered their e-mail addresses with the company.</i></p>

In addition to the above, the following framework provided in MCA Circular dated April 8, 2020 and April 13, 2020 related to conduct of extra-ordinary general meeting for transacting urgent matters shall be applicable *mutatis-mutandis* for conducting AGM:

- Meeting to be conducted through video conferencing or audio visual means and the recorded transcript to be kept in safe custody of the company and also posted on website (if any) in case of public company;
- Mechanism shall provide for participation of at least 1000 members (500 members in case of companies which are not required to provide the facility of e-voting) and concurrent posting of questions or advance submission of questions on a respective e-mail ID of the company;
- Attendance of members participating in the meeting through video conferencing or other audio visual means to be counted for the purpose of quorum;
- Chairman of the meeting shall be chosen in following manner:
 - For less than 50 members present at meeting: Follow section 104;
 - All other cases: by poll conducted through e-voting;

- For companies which are required to provide the facility of e-voting, Chairman to ensure facility of e-voting remains available for poll conducted in the meeting, depending on no. of members present:
 - For less than 50 members present at meeting: voting may be conducted either through the e-voting system or by a show of hands, unless a demand for poll is made;
 - All other cases: through e-voting;
- Provision relating to proxies shall not be available but representatives shall be allowed;
- Auditor or his qualified representative of the Company and at least one Independent Director (where the company is required to appoint one) is required to attend the meeting;
- Notice shall define complete mechanism for the conduct of meeting in compliance with this Circular;
- All the resolutions passed using this mechanism to be filed with Registrar within 60 days of the meeting indicating the mechanism defined in circular and all provisions of Act and rules are complied with.

The companies conducting their AGM through e-voting shall ensure that all other compliances associated with the provisions relating to general meetings viz. making of disclosures, inspection of related documents/ registers by members, or authorizations for voting by bodies corporate, etc. as provided in the Companies Act, 2013 and the articles of association of the company are made through electronic meeting.

MCA vide its Circular dated April 21, 2020 had provided that the AGM for the companies whose financial year ended on December 31, 2019 (other than first financial year) can be held within 9 months from closure of financial year. Companies which are not covered by this Circular and which are unable to conduct their AGM in accordance with the framework as provided above, have been directed by MCA to make application for extension of AGM at a suitable point of time before the concerned Registrar of Companies under Section 96 of the Companies Act, 2013.

Companies that are neither covered in circular providing for Companies having FY ending on December 31, 2019 conduct of AGM till September 30, 2020 nor are able to conduct AGM through above framework are advised to apply for extension of AGM.

Source: http://www.mca.gov.in/Ministry/pdf/Circular20_05052020.pdf

3.2 Clarification on dispatch of notice under section 62(2) of the Companies Act, 2013 by Listed Companies for rights issue opening up to July 31, 2020

In view of the difficulties faced by companies in sending notices through postal or courier services on account of the threat posed by CoVID-19, MCA vide its Circular dated May 11, 2020 has issued a clarification that for rights issue opening up to July 31, 2020, in case of listed companies, complying with the conditions specified by SEBI in its Circular dated May 6, 2020 inability to dispatch notice to their shareholders through registered post or speed post or courier would not be viewed as violation of section 62(2) of the Companies Act, 2013.

Source: http://www.mca.gov.in/Ministry/pdf/Circular21_11052020.pdf

3.3 Further Extension for names reserved and resubmission of forms

In continuation to MCA Notice dated April 22, 2020, MCA has further extended the time in respect of name reservation application and resubmission of forms as provided in the below table:

S.No.	Issue Description	Period/Days of Extension
1.	Names reserved for 20 days for new company incorporation. SPICe+ Part B needs to be filed within 20 days of name reservation.	Names expiring any day between 15 th March 2020 to 31 st May would be extended by 20 days beyond 31 st May 2020
2.	Names reserved for 60 days for change of name of company. INC-24 needs to be filed within 60 days of name reservation.	Names expiring any day between 15 th March, 2020 to 31 st May, 2020 would be extended by 60 days beyond 31 st May 2020.
3.	Extension of resubmission validity for companies	SRNs where last date of Resubmission (RSUB) falls between 15 th March, 2020 to 31 st May, 2020, additional 15 days beyond 31 st May, 2020 would be allowed. However, for SRNs already marked under NTBR (Not to be taken on record), extension would be provided on case to case basis. It has been clarified by MCA that Forms will not get marked to NTBR due to non-resubmission during this extended period as detailed above. It also includes IEPF Non STP eForms (IEPF 3, IEPF 5 and IEPF 7)
4.	Names reserved for 90 days for new LLP incorporation/change of name of LLP. FiLLiP/Form 5 needs to be filed within 90 days of name reservation.	Names expiring any day between 15 th March, 2020 to 31 st May, 2020 would be extended by 20 days beyond 31 st May, 2020.
5.	Resubmission of validity for LLPs	SRNs where last date of resubmission (RSUB) falls between 15 th March, 2020 to 31 st May, 2020, additional 15 days would be allowed from 31 st May, 2020 for resubmission. However, for SRNs already marked under NTBR, extension would be provided on case to case basis. It has been clarified by MCA that Forms will not get marked to NTBR due to non-resubmission during this extended period as detailed above.
6.	Extension for marking IEPF-5 SRNs to 'Pending for Rejection u/r 7(3)' and 'Pending for Rejection u/r 7(7)'	SRNs where last date of filing eVerification report (for both Normal as well as Re-submission filing) falls between 15 th March, 2020 to 31 st May, 2020 would be allowed to file the form till 30 th September, 2020. For SRNs already marked under 'Pending for Rejection u/r 7(3)' and 'Pending for Rejection u/r 7(7)', extension would be allowed on case to case basis. It has been clarified by MCA that the status of IEPF-5 shall not change to 'Pending for Rejection u/r 7(3)' and 'Pending for Rejection u/r 7(7)' till September 30, 2020.

Source: http://www.mca.gov.in/Ministry/pdf/Extension_22042020.pdf

4 SEBI Updates

4.1 Relaxations relating to procedural matters- Issue and Listing

SEBI vide Circular No. **SEBI/HO/CFD/DIL2/CIR/P/2020/78** dated May 6, 2020 has provided the following **one time relaxations from strict enforcement of certain regulations of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 [ICDR Regulations] pertaining to Rights Issue opening up to July 31, 2020 with immediate effect:**

- a) Issue of abridged letter of offer, application form and other issue related material to shareholders can be done through electronic transmission. Failure to adhere to modes of dispatch through registered post or speed post or courier services due to prevailing CoVID-19 related conditions shall not be viewed as violation or non-compliance. The issuers shall publish the letter of offer, abridged letter of offer and application forms on the websites of the company, registrar, stock exchanges and the lead manager(s) to the rights issue. Further, the issuer company along with lead manager(s) shall undertake all adequate steps to reach out its shareholders through other means such as ordinary post or SMS or audio-visual advertisement on television or digital advertisement, etc.
- b) The issue related advertisement shall contain additional details relating to manner in which all shareholders who have not been served notice electronically may apply. The Issuer may have the flexibility to publish dispatch advertisement in additional newspapers. The advertisement shall also be made available on website of the issuer, registrar, lead managers and stock exchanges. The Issuer shall make use of advertisements in television channels, radio, internet etc. to disseminate information relating to the application process. Such advertisements can be in the form of crawlers/tickers as well.
- c) SEBI vide its Circular dated January 22, 2020 has introduced dematerialized rights entitlements (REs). As per this Circular, physical shareholders are required to provide their demat account details to Issuer/ Registrar to the Issue for credit of REs. In view of COVID-19 pandemic and the lockdown measures undertaken by Central and State Governments, in case the physical shareholders who have not been able to open a demat account or are unable to communicate their demat details to the issuer/ registrar for credit of REs within specified time, such physical shareholders may be allowed to submit their application subject to following conditions:-
 - i. Issuer along with lead manager(s) and other recognized intermediary shall institute a mechanism to allow physical shareholders to apply in the rights issue. Issuer along with lead manager(s) shall ensure to take adequate steps to communicate such a mechanism to physical shareholders before the opening of the issue.
 - ii. Such shareholder shall not be eligible to renounce their rights entitlements.
 - iii. Such physical shareholders shall receive shares, in respect of their application, only in demat mode. The lead managers may also be guided by Para 10 of Form- A Schedule V of the ICDR Regulations.
- d) An application for right issue as per regulation 76 of the ICDR Regulations shall be made only through ASBA facility but due to the prevailing situation of COVID 19 and lockdown measures and to ensure that all the eligible shareholders are able to participate and apply for rights issue, the issuer along with lead manager, registrar and other recognized intermediaries institute an optional mechanism (non-cash mode only) to accept the applications of shareholders subject to ensuring that no third party payments shall be allowed in respect of such applications.

- e) In respect of mechanisms at point (c) and (d) above, the issuer along with lead manager shall ensure the following :
- The mechanism(s) shall only be an additional option and not a replacement of the existing process. As far as possible, attempts will be made to adhere to the existing prescribed framework
 - The mechanism(s) shall be transparent, robust and have adequate checks and balances. It should aim at facilitating subscription in an efficient manner without imposing any additional costs on investors. The issuer along with lead manager(s), and registrar shall satisfy themselves about the transparency, fairness and integrity of such mechanism.
 - An FAQ, online dedicated investor helpdesk, and helpline shall be created by the issuer company along with lead manager(s) to guide investors in gaining familiarity with the application process and resolve difficulties faced by investors on priority basis.
 - The issuer along with lead manager(s), registrar, and other recognized intermediaries (as incorporated in the mechanism) shall be responsible for all investor complaints
- f) The following relaxations are available for all offer documents to be filed till July 31, 2020:
- Authentication/ certification/ Undertaking(s) in respect of offer documents, may be done using digital signature certifications.
 - The issuer along with lead manager(s) shall provide procedure for inspection of material documents electronically.

Source: https://www.sebi.gov.in/legal/circulars/may-2020/relaxations-relating-to-procedural-matters-issues-and-listing_46652.html

4.2 Additional Relaxations in relation to compliance with certain provisions of SEBI (LODR) Regulations, 2015 due to COVID 19 Pandemic

SEBI vide its Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/79 dated May 12, 2020 has provided following additional relaxations in relation to compliance with certain provisions of SEBI (LODR) Regulations/ LODR Regulations:

A. RELAXATIONS NECESSITATING OUT OF MCA CIRCULARS

- Regulation 36(1)(b) and (c) of the LODR Regulations provides for sending of hard copy of statement containing salient features of all documents as prescribed in Section 136 of the Companies Act, 2013 to the shareholders who have not registered their Email ID and hard copy of full annual report to those shareholders who requests for the same respectively. Regulation 58(1)(b) and (c) of LODR Regulations extend similar requirements to entities which have listed their NCDs and NCRPS. This requirement has been dispensed with for listed entities who conduct their Annual General Meeting during calendar year 2020 (i.e. till December 31, 2020).
- Regulation 44 (4) of LODR Regulations specifies that the listed entity shall send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against a resolution. The requirement under regulation 44 (4) has been dispensed with temporarily, in case of meetings held through electronic mode only. This relaxation is available for listed entities who conduct their AGMs through electronic mode during the calendar year 2020 (i.e. till December 31, 2020).
- Regulation 12 of LODR Regulations prescribes issuance of 'payable at par' warrants or cheques in case it is not possible to use electronic modes of payment. Further, in case the amount payable as dividend exceeds Rs.1500/-, the 'payable-at-par' warrants or cheques shall be sent by speed post. The requirements of this regulation will apply upon normalization of postal

services. However, in cases where email addresses of shareholders are available, listed entities shall endeavour to obtain their bank account details and use the electronic modes of payment specified in Schedule I of the LODR.

B. PUBLICATION OF NEWSPAPER ADVERTISEMENTS

Exemption from publication of advertisement in newspapers has been extended for all events under LODR Regulations till June 30, 2020.

C. RELAXATION FROM PUBLISHING QUARTERLY CONSOLIDATED FINANCIAL RESULTS UNDER REGULATION 33(3)(B) OF LODR REGULATIONS FOR CERTAIN CATEGORIES OF LISTED ENTITIES

1. Listed entities which are banking and / or insurance companies or having subsidiaries which are banking and / or insurance companies may submit consolidated financial results under regulation 33(3)(b) for the quarter ending June 30, 2020 on a voluntary basis. However, they shall continue to submit the standalone financial results as required under regulation 33(3)(a) of the LODR.
2. If such listed entities choose to publish only standalone financial results and not consolidated financial results, they shall give reasons for the same.

SOURCE: https://www.sebi.gov.in/legal/circulars/may-2020/additional-relaxation-in-relation-to-compliance-with-certain-provisions-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-covid-19-pandemic_46661.html

4.3 RELAXATION FROM THE APPLICABILITY OF SEBI CIRCULAR DATED OCTOBER 10, 2017 ON NON-COMPLIANCE WITH THE MINIMUM PUBLIC SHAREHOLDING (MPS) REQUIREMENTS

SEBI vide its circular CFD/CMD/CIR/P/2017/115 dated October 10, 2017 lays down the procedure to be followed by the recognized stock exchanges/ depositories with respect to MPS non-compliant listed entities, their promoters and directors, including levy of fines, freeze of promoter holding etc.

SEBI vide its circular SEBI/HO/CFD/CMD1/CIR/P/2020/81 dated May 14, 2020 has decided to grant relaxation from the applicability of October 10, 2017. Accordingly, the stipulations of the aforesaid October 10, 2017 SEBI Circular are relaxed for listed entities for whom the deadline to comply with MPS requirements falls between the period from March 1, 2020 to August 31, 2020. Recognized Stock Exchanges have been advised not to take any penal action as envisaged in the October 10, 2017 Circular against such entities in case of non-compliance during the said period. Penal actions, if any, initiated by Stock Exchanges from March 1, 2020 till date for non-compliance of MPS requirements by such listed entities may be withdrawn.

SOURCE: https://www.sebi.gov.in/legal/circulars/may-2020/relaxation-from-the-applicability-of-sebi-circular-dated-october-10-2017-on-non-compliance-with-the-minimum-public-shareholding-mps-requirements_46669.html

4.4 RELAXATIONS RELATING TO PROCEDURAL MATTERS- TAKEOVERS AND BUYBACKS

In view of the impact of CoVID-19 pandemic and the lockdown measures undertaken by Central and State Governments, SEBI vide its circular dated SEBI/HO/CFD/CMD1/CIR/P/2020/83 dated May 14, 2020 has granted one time relaxations from strict enforcement of certain regulations of SEBI (Substantial

Acquisition of Shares and Takeovers) Regulations, 2011 (hereafter “Takeover Regulations”) and SEBI (Buy-back of securities) Regulations, 2018 (hereafter “Buy-back Regulations”) pertaining to open offers and buy-back tender offers opening up to July 31, 2020.

1. Service of letter of offer and/ or tender form and other offer related material to shareholders may be undertaken by electronic transmission as already provided under Regulation 18(2) of the Takeover Regulation and Regulation 9(ii) of Buy-Back Regulations subject to the following:
 - a. The acquirer / company shall publish the letter of offer and tender form on the websites of the company, registrar, stock exchanges and the manager(s) to offer.
 - b. The acquirer / company along with lead manager(s) shall undertake all adequate steps to reach out to the/its shareholders through other means such as ordinary post or SMS or audio-visual advertisement on television or digital advertisement, etc.
 - c. Further, the Acquirer/ Company shall make an advertisement containing details regarding the dispatch of the letter of offer electronically and availability of such letter of offer along with the tender form on the website of the company, registrar and manager to the offer in the same newspapers in which (i) detailed public statement was published as per regulation 14(3) of Takeover Regulation or (ii) public announcements was published as per regulation 7(i) of Buy-back regulation.
 - d. Further, the acquirer/ company may have the flexibility to publish the dispatch advertisement in additional newspapers, over and above those required under the respective regulations.
 - e. The acquirer/ company shall make use of advertisements in television channels, radio, internet etc. to disseminate information relating to the tendering process. Such advertisements can be in the form of crawlers/ tickers as well.
 - f. All the advertisement issued should also be made available on the website of the company, Registrar, Managers to the offer, and Stock Exchanges.
2. The acquirer/ company and the manager to offer shall provide procedure for inspection of material documents electronically.
3. As far as possible, attempts will be made to adhere to the existing prescribed framework.

4.5 ADVISORY ON DISCLOSURE OF MATERIAL IMPACT OF COVID-19 PANDEMIC ON LISTED ENTITIES UNDER SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015(‘LODR) REGULATIONS’/LODR’)

SEBI vide its circular dated SEBI/HO/CFD/CMD1/CIR/P/2020/84 dated May 20, 2020 has issued an advisory directing the listed entities that they shall endeavor to ensure that all investors have access to timely, adequate and updated information related to impact of CoVID-19 pandemic on their business, performance and financials. SEBI has provided an illustrative list of information that the listed entities may consider disclosing, subject to the application of materiality, as provided below:

- Impact of the CoVID-19 pandemic on the business;
- Ability to maintain operations including the factories/units/office spaces functioning and closed down;

- Schedule, if any, for restarting the operations;
- Steps taken to ensure smooth functioning of operations;
- Estimation of the future impact of CoVID-19 on its operations;
- Details of impact of CoVID-19 on listed entity's - o capital and financial resources;
 - profitability;
 - liquidity position;
 - ability to service debt and other financing arrangements;
 - assets;
 - internal financial reporting and control;
 - supply chain;
 - demand for its products/services;
- Existing contracts/agreements where non-fulfilment of the obligations by any party will have significant impact on the listed entity's business;
- Other relevant material updates about the listed entity's business

Further, to have continuous information about the impact of CoVID-19 on operations, listed entities may provide regular updates, as and when there are material developments.

Additionally, while submitting financial statements under Regulation 33 of the LODR, listed entities may specify/include the impact of the CoVID-19 pandemic on their financial statements, to the extent possible.

When disclosing material information related to the impact of CoVID-19, listed entities should not resort to selective disclosures, keeping in mind the principles governing disclosures and obligations of a listed entity as prescribed in LODR Regulations, more specifically, having regard to the requirements of Regulation 4(2)(e) of the LODR on disclosure and transparency. Depending on circumstances peculiar to a listed entity and on account of passage of time, the listed entity shall revisit, refresh, or update its previous disclosures.

SOURCE: https://www.sebi.gov.in/legal/circulars/may-2020/advisory-on-disclosure-of-material-impact-of-covid-19-pandemic-on-listed-entities-under-sebi-listing-obligations-and-disclosure-requirements-regulations-2015_46688.html

5 RBI Updates

5.1 Extension of time limits for Settlement of import payment

In view of the disruptions due to outbreak of COVID- 19 pandemic, RBI vide its Notification dated May 22, 2020 has decided that for shipment of imports made on or before July 31, 2020, the time period for completion of remittances against normal imports (i.e. excluding import of gold/diamonds and precious stones/ jewellery), except in cases where amounts are withheld towards guarantee of performance etc., shall be extended from six months to twelve months from the date of shipment of imports.

Source: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11900&Mode=0>

6 Monthly Compliance Calendar June'2020

7th June TDS/TCS LIABILITY DEPOSIT Due date of depositing TDS/ TCS liabilities for previous month.	7 June EQUALISATION LEVY DEPOSIT Due date of depositing Equalization levy for previous month	15 June ADVANCE TAX PAYMENT Due date for payment of Advance Tax for April to June'2020	24th June GSTR-3B RETURN FILING DUE DATE Due date for filing of GSTR-3B for taxpayer having turnover more than 5 crores is upto 24 th June without any late fees
30th June GSTR-1 RETURN FILING DUE DATE GST Return filing by registered person with aggregate turnover either more than 1.50 crores or less than equal to 1.50 crores is upto 30th June without any late fees	30th June GSTR-7 RETURN FILING DUE DATE GSTR 7 is a return to be filed by the persons who is required to deduct TDS (Tax deducted at source) under GST	30th June GSTR-8 RETURN FILING DUE DATE GSTR-8 is a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST.	30th June RETURN FOR COMPOSITION TAX- PAYERS The due date for filing CMP 08 for Composition taxpayers has been extended
30th June DUE DATE FOR FILING OF FORM 61A Due date for filing of Form 61A for reporting the statutory financial transactions(SFT)	30th June REVISED OR BELATED INCOME TAX RETURN Due dates for filing of belated or revised income tax returns for FY 2018-19	30th June TDS/TCS RETURN Due date for filing of TDS/TCS Return for the quarter ending 31 st March'2020	30th June LINKING OF PAN WITH AADHAAR Due date for Linking PAN and Aadhaar.

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Our Services include business set up services in India and outside India, business valuations for merger & acquisitions and in line with global regulatory compliance, financial re- porting, corporate law advisory, international taxation, direct and indirect tax advisory, internal and external audit etc.

Our Expert Team while sharing a common vision, belong to diverse technical, business and legal backgrounds and comprise of Chartered accountants, Chartered financial Analysts (US), Company Secretaries, Cost Accountants, Lawyers and Engineers. We deploy specialized and multidisciplinary teams to serve assignments requiring specific skills. This enables us to work proactively and closely with clients and respond effectively to their needs in a highly focused manner, which in today's fast changing business environment is quite crucial to a client's success.

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