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Coverage:

- Income Tax Updates
- GST Updates
- MCA News
- IBBI Updates

Regulatory Updates

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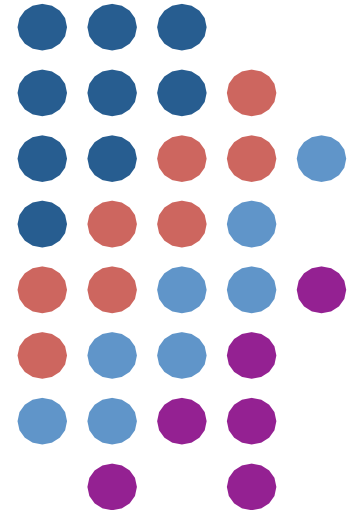
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LPG Equipment Research Centre notified as 'Scientific Research Association

CBDT vide [Notification No.05/2018 dated 22.01.2018](#) notified "M/s LPG Equipment Research Centre ('LERC') (PAN:-AAAAL0454G) for the purpose of clause (ii) of subsection (l) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), from Assessment year 2017-2018 onwards in the category of 'Scientific Research Association. The said notification lays down the conditions to be satisfied for availing the deductions under section 35 along with the situations in which the said deduction can be withdrawn by the central government.

ITAT (Mum) held that revenue cannot direct assessee to act in a manner in defiance to the principles of commercial expediency

Pyramid Consulting Engineers Pvt. Ltd [TS-30-ITAT-2018(Mum)]

Conclusion: Mumbai ITAT deletes addition u/s. 41(1) [on account of cessation of trading liability] in case assessee-company (engaged in engineering, designing services for oil & gas industry) with respect to outstanding commission payable to its agent in Kuwait ('creditor') for AY 2011-12. ITAT notes that assessee had entered into MoU with the creditor for procuring business for assessee in Kuwait, noting that the creditor did not make any request for clearance of commission of Rs. 34.90 lakhs outstanding for more than 1460 days. AO made addition u/s. 41(1) treating it as liability ceased. Rejecting revenue's action, ITAT notes that under the MoU, commission was payable only on realization of proceeds from customers procured by agent, thus observes that the commission payable was outstanding as the agent could not recover sales proceeds from customer. ITAT held that by withholding commission payments of agent with respect to overdue payment from its debtors, assessee has acted in a manner consistent with principles of commercial expediency and in accordance with the terms of MOU, thus remarks that " ... Revenue

cannot direct assessee to act in a manner in defiance to the principles of commercial expediency and in turn to damage its own business interest.". Observes that assessee had also produced details of court cases at Kuwait and correspondences with its overseas buyers/agents with respect to its efforts for making recovery etc. to justify that the payments were still due from the customers

Madras HC held that assessee (an employee of a multinational company) not liable for interest u/s 234B in respect of salary received outside India when the employer abroad had paid the interest u/s 201(1A) for not deducting tax at source

John Baptist Lasrado [TS-629-HC-2017(MAD)]

Conclusion: Madras HC sets aside Settlement commission order, holds that assessee (an employee of a multinational company) not liable for interest u/s 234B in respect of salary received outside India. HC accepted assessee's stand that when the employer abroad had paid the interest u/s 201(1A) for not deducting tax at source, then once again tax cannot be recovered from assessee. For AYs 1996-97 to 2005-06, assessee had filed Income-tax returns disclosing only the salary income received in India, thereafter assessee filed settlement application disclosing income through ESOP and salary received outside India (on which no TDS was deducted by the employer), though Settlement commission admitted such additional income but levied interest u/s. 234B (for advance tax default). Madras HC applies SC judgment in Hindustan Coca Cola Beverage (P) Ltd. wherein it was held that where tax was already paid by the recipient of income, the tax once again could not be recovered from deductor -assessee. HC remarks that "By applying the above decision to the facts of the case, the correct conclusion that can be arrived is that the taxes have been already paid by the deductor.... once again tax cannot be recovered from the petitioner/assessee". Madras HC followed Bombay HC ruling in Emilio Ruiz Berdejo wherein on identical facts it was held that no further interest can be claimed from assessee either under Sections 234A or 234B or 234C, where deductor has already discharged the tax liability with interest payable u/s. 201(1A). Also Madras HC relied on Delhi HC ruling in Jacobs Civil Incorporated wherein it was held that once the assessee-payee has no role or duty in deducting or collecting the tax, "the question of payment of any interest did not arise as it cannot be said in such circumstances that the assessee is in default for the purposes of Section 234B of the Act."

The case laws incorporated in this section has been annexed to this mail.



Special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa

CBEC has vide [Notification No. 04/2018-CT \(Rate\)](#) notified that payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter). Similar [Notification No. 4/2018-IT \(Rate\)](#) has been issued in Integrated Tax.

Applicability of e-way bill rescinded till further notification

CBEC via [Notification no. 11/2018-Central Tax dated 02.02.2018](#), has postponed the applicability of e-way bill till a date to be notified in future.

FAQ on E-way bill released

Clearing the vagueness on issues related to E-way bill, CBEC has issued FAQs on E-way bill related to general portal, registration, enrolment, login, cancelling e-way bill, rejecting e-way bill and consolidated e-way bill. [Click here to read more](#)

Recommendations of 25th GST Council meetings notified

CBEC vide [Notification No. 01/2018- CT \(Rate\) dated 25.01.2018](#) has amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 25th meeting held on 18.01.2018. Also, [Notification No. 02/2018- CT \(Rate\)](#) has been issued to amend notification No. 12/2017- Central Tax (Rate) so as to exempt certain services as recommended by GST Council. Similar notifications has been issued in Integrated Tax.

Renting of immovable property to a registered person by Central Government, State Government, Union territory or local authority to be taxed under Reverse Charge Mechanism (RCM)

CBEC has vide [Notification No. 03/2018- CT \(Rate\)](#) amend notification No. 13/2017- Central Tax (Rate) so as to specify services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a registered person under CGST Act, 2017 to be taxed under Reverse Charge Mechanism (RCM). Similar [Notification No. 3/2018-IT \(Rate\)](#) has been issued in Integrated Tax.

Central government's share of profit petroleum from central tax exempted

CBEC has vide [Notification No. 05/2018-CT \(Rate\)](#) exempts the intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf. Similar [Notification No. 5/2018-IT \(Rate\)](#) has been issued in Integrated Tax.

No cess on old and used motor vehicles

In [Notification no. 01/2018-comp cess dated 25.01.2018](#), CBEC has exempted old and used cars from the levy of GST Compensation Cess. The notification was issued to give effect to the decision made by the GST Council, the apex body under the new tax regime, to cut GST rates on used cars.

GST Data reveals 50% increase in number of Indirect Taxpayers

A preliminary analysis of the Goods and Services Tax (GST) data reveals that there has been a 50% increase in the number of indirect taxpayers, besides a large increase in voluntary registrations, especially by small enterprises that buy from large enterprises and want to avail themselves of Input Tax Credits (ITC). [Click here to read more](#)



Central Government exempted certain companies, from the provisions related to deferred tax asset or deferred tax liability for seven years

MCA directs that the provisions of Accounting Standard 22 or Indian Accounting Standard 12 relating to deferred tax asset or deferred tax liability shall not apply, for seven years with effect from the 1st April, 2017, to a Government company which is a **public financial institution** under sub-clause (iv) of clause (72) of section 2 of the Companies Act, 2013 or is a **Non-Banking Financial Company** registered with the Reserve Bank of India under section 45-IA of the Reserve bank of India Act, 1934 and government company engaged in the business of **infrastructure finance leasing** with not less than seventy five per cent. of its total revenue being generated from such business with Government companies or other entities owned or controlled by Government. [Click here to read more](#)

MCA issued corrigendum to order of constitution of Insolvency Law Committee

MCA has issued a corrigendum to order of constitution of Insolvency Law Committee on 06.02.2018 thereby altering para 6 of order dated 16.11.2017 and mentioning that the committee shall submit its recommendations within **three months** from its meeting against previous two months. [Click here to read more](#)

Companies (Registration offices and Fees) Amendment Rules, 2018 notified

MCA has notified the companies (Registration offices and Fees) Amendment Rules, 2018 which shall come into force from the 26th January, 2018. To give effect to the new process of incorporation which is named as "RUN - Reserve Unique Name" which is an unique facility for reservation of name and Incorporation of Company. In the said process, no re-submission of the application is allowed in the case of reservation of a name RUN. Further, to facilitate the ease of doing and to invite more people under the corporate structure, there will be no fees for incorporation of companies upto the

authorised capital of Rs. 10 Lakhs. However, for small & One person companies, the revised table of fees shall be applicable provided the said company shall remain as said class of company for a period not less than one year from its incorporation. [Click here to read more](#)



IBBI amended CIRP process

IBBI has issued notification to amend the CIRP process, which may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2018 and shall come into force on the date of their publication in the Official Gazette. The resolution professional shall within seven days of his appointment, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation 35 subject to condition as prescribed in the Regulations. The resolution professional shall submit the information memorandum in electronic form to each member of the committee of creditors within two weeks of his appointment as resolution professional and to each prospective resolution applicant latest by the date of invitation of resolution plan, on receiving confidentiality undertaking. [Click here to read more](#)

IBBI has clarified that it has no association with "IBBI Insolvency Practitioners LLP"

It has come to the notice of the Insolvency and Bankruptcy Board of India (IBBI) that there is a Limited Liability Partnership (LLP) by the name "IBBI Insolvency Practitioners LLP". It is clarified that IBBI has not authorised any person to use it's name in any form, whether abbreviated or otherwise and "IBBI Insolvency Practitioners LLP" is not registered as an Insolvency Professional Entity with IBBI and Board has no association whatsoever with the said LLP. [Click here to read more](#)

Feedback/Queries can be sent to info@akvg.com

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