

NEWSLETTER

TAX

DECEMBER
2020

- Income Tax
- Goods and Services Tax
- Important Rulings



Lovi Mehrotra & Associates

Chartered Accountants

**21-22 IInd Floor Krishna Nagar Safdarjung Enclave
New Delhi 110029**

Website : www.lma.co.in • Email : g.aggarwal@lma.co.in

INCOME TAX

1. Clarifications on provisions of the Direct Tax Vivad se Vishwas Act, 2020

CBDT

Circular No.21/2020 dated 04.12.2020

Vide this circular, CBDT has issued clarifications in respect of various issues on provision of the Direct Tax Vivad se Vishwas Act, 2020 (The scheme).

Gist of the clarifications is as under:

Particular	Clarification
A] Appeal or arbitration is pending with appellate authority as on 31st Jan 2020. However, subsequent to that date and before filing of declaration, the appeal has been disposed of by the appellate authority. Whether it is still eligible under Vivad se Vishwas?	Yes , Amount payable under the scheme shall be computed with reference to the position of appeal or arbitration as on 31 st January, 2020
B] Whether Vivad se Vishwas can be availed in a case where the enforceability of an assessment order passed by the AO has been stayed by the High Court or Supreme Court?	Yes , whether or not the appeal has been filed against the assessment order.
C] Whether the taxpayer in whose case the time limit for filing of appeal has expired before 31 st Jan 2020 but an application for condonation of delay has been filed is eligible?	If the time limit for filing appeal expired during the period from 1 st April 2019 to 31 st Jan, 2020 and the application for condonation is filed before the date of issue of this circular (04.12.2020), and appeal is admitted by the appellate authority before the date of filing of the declaration, such appeal will be deemed to be pending as on 31st Jan 2020 and eligible for the scheme.
D] Whether Vivad se Vishwas can be availed in a case where proceedings are pending before Income Tax Settlement Commission (ITSC) or where writ has been filed against the order of ITSC?	No.
E] If AAR has ruled in favour of the taxpayer and the Department has gone in writ or appeal before the High Court/Supreme Court and the total income of the taxpayer was quantifiable on the facts of the case before AAR, is the taxpayer eligible under Vivad se Vishwas?	Yes.
D] Appeal has been set aside to CIT(A) / Dispute Resolution Panel (DRP) and was pending as on 31st Jan 2020? Whether it is eligible?	Yes.
E] A trust has been denied registration U/S 12AA of the Act. Whether appeal against such order is eligible for Vivad se Vishwas?	No.
F] Vivad se Vishwas forms do not contain a specific option to settle appeal filed against intimation U/S 143(1) of the Act. Accordingly, how to settle such appeal, which is pending as on 31 st Jan 2020.	Appeal filed against intimation u/s 143(1) is eligible under the scheme if adjustment has been made under sub-clauses (iii) to (vi) of clause (a) of section 143(1) of the Act.
G] Whether enhancement notice issued by CIT(A) post 31 st Jan 2020 is to be taken into account for computation of disputed tax?	Enhancement notice issued by CIT(A) after 31 st Jan, 2020 but before the date of issue of this circular (i.e. 04.12.2020) shall be required to be taken into account for determining amount payable under the scheme. However, notice issued on or after 04.12.2020 but on or before 31.12.2020, shall not be considered.
H] If appeal involving issue of disallowance under	No.

section 40(a)(i)/(ia) of the Act is settled under the Scheme, whether consequential relief will be available in proceedings under section 201 of the Act initiated qua the same payment/ deduction.	
I] The declarant has filed a declaration for disputed penalty. He is required to pay 25% or 30% of disputed penalty to settle the dispute. Will interest levied or leviable be waived in this case?	Yes. Once the required amount of disputed penalty has been paid by the declarant, interest relating to such penalty would be waived.
J] Once declaration is filed by assessee U/S 4 of Vivad se Vishwas can the same be revised? If Yes, at what stage of the proceedings will the same be allowed?	Yes, declaration can be revised any number of times before the Designated Authority issues a certificate under section 5(1) for amount payable under the scheme.

[Circular No.21](#)

2. Explanatory note on scheme of Tax deduction at source from Salaries during the FY 2020-21 under section 192 of the Income Tax Act 1961

CBDT
Circular No.20/2020 dated 03.12.2020

This circular provides details in respect of rates of deduction of Income tax from the payment of income chargeable under head "Salaries" during the FY 2020-21 and related provisions of the Income Tax Act 1961 and Income tax Rules, 1962.


[Circular No.20](#)

3. Extension of due date of furnishing of Income tax returns , Tax audit report & declaration under Vivad se Vishwas Act,2020

Ministry of Finance
Press release dated 30.12.2020

CBDT has **further extended** the due dates for furnishing of ***Tax audit report, filing of Income tax return (ITR) for the AY 2020-21 and declaration under Vivad se Vishwas Act,2020.*** The new due dates notified are as below:

Nature of Compliance	Assessment Year	Original Due Date	Last Extended Due Date	New Due Date
ITR (In case of TP Audit)	2020-21	30-11-2020	31-01-2021	15-02-2021
ITR (Company Assessee)	2020-21	31-10-2020	31-01-2021	15-02-2021
ITR (where tax audit is required)	2020-21	31-10-2020	31-01-2021	15-02-2021
ITR (in case of a partner in a firm whose tax audit is required)	2020-21	31-10-2020	31-01-2021	15-02-2021
ITR (in any other case i.e. Individual/HUF)	2020-21	31-07-2020	31-12-2020	10-01-2021
Filing of Tax audit report and all other reports	2020-21	30-09-2020	31-12-2020	15-01-2021

 **Payment of Self- Assessment Tax :** the due date for payment of self-assessment tax where self-assessment tax liability is up to Rs. 1 Lakh has been extended as per table given below:

Category of Taxpayer	Extended Due date
ITR (In case of TP Audit)	15-02-2021
ITR (Company Assessee)	15-02-2021

ITR (where tax audit is required)	15-02-2021
ITR (in case of a partner in a firm whose tax audit is required)	15-02-2021
ITR (in any other case i.e. Individual/HUF)	10-01-2021

[Press release](#)

4. Extension of date of payment under *Vivad se Vishwas Act,2020*

Ministry of Finance

Press release **dated 30.12.2020**

Central Government has further extended the following dates under Vivad se Vishwas Act,2020:

Particular	Date (Old)	Date (New)
Filing of Declaration	31 st December,2020	31 st January,2021
Order under VsV scheme by the proper officer	30 th January,2021	31 st January,2021

[Press Release](#)

GOODS AND SERVICES TAX

1. Extension of the due dates for compliances and actions in respect of anti-profiteering measures

CBIC Notification No.
91/2020 of Central Tax – **dated 14.12.2020**

CBIC has extended due date of compliance by any authority for actions in respect of anti-profiteering measures under GST which falls during the period from 20.03.2020 to 30.03.2021 till 31.03.2021.

[Notification No.91](#)

2. Waiver of late fee for FORM GSTR-4 filing in UT of Ladakh for Financial year 2019-20

CBIC Notification No.
93/2020 of Central Tax – **dated 22.12.2020**

CBIC has waived the late fee payable for delay in furnishing of **FORM GSTR-4 (filing by composition dealer)** for the Financial Year 2019-20 under **section 47** from the **1st November, 2020 till the 31st December, 2020** for registered person whose principal place of business is in the Union Territory of **Ladakh**.

[Notification No.93](#)

3. Seeks to bring following Sections into force of Finance Act, 2020(12 of 2020)

CBIC Notification No.
92/2020 of Central Tax – **dated 22.12.2020**

CBIC has notified **1st January, 2021** as the date on which the provisions of sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of the Finance Act, 2020 Act in respect of GST, shall come into force.

Gist of changes are as under:

Old Provision	Amended Provision
Section 10(2) of CGST Act: Ineligible criteria to opt composition scheme include: a) A person making inter-state supplies of goods b) A person making supplies of goods which are not leviable to GST. c) A person making supplies of goods through an electronic commerce operator.	The supplies shall include “Service” along with supplies of Goods.
Section 29(1)(c) of CGST Act: Cancellation of registration if taxable person, other than the person registered under section 25(3), is no longer liable to be registered under section 22 or section 24.	A sub clause (c) has been substituted which includes circumstance “taxpayer intends to optout of the registration voluntarily under section 25(3)” This was earlier specifically excluded from the clause.
Section 122 (1) of CGST Act : Penalty for offence under CGST Act. A list of offences has been provided in subsection (1) of section 122 of CGST Act.	A new sub section (1A) under section 122 has been inserted which states that Any person who retains the benefit of a transaction (offence) covered under the following clauses of subsection (1) of section 122 a) clauses (i) related to supply without invoice or false/incorrect invoice, b) clause (ii) related to issue of invoice without supply of goods/services or both.

- c) Clause (vii) related to availed or utilized ITC without receipt of goods/services or both.
- d) clause (ix) related to distributed ITC in contravention of section 20
- i.e. on whose instance (beneficiary) such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.

[Notification No.92](#)

4. CGST (Fourteenth amendment) Rules, 2020

CBIC Notification No.
94/2020 of Central Tax – dated 22.12.2020

CBIC has amended the following rules of the CGST Rules, 2017 (w.e.f. 01-01-2021)

Gist of changes are as under:-

Rule	Amended Provision
Rule 9 : Grant of registration	Earlier the registration application was to be approved/notice issued for further clarification within 3 working days from the date of submission of application. This period has now been amended to 7 working days. If within 7 days , no action has been taken by grant of registration shall be deemed to have been approved.
Rule 36 (4) : Conditions for availing provisional ITC	ITC pertaining to outward supplies not declared by their suppliers in Form GSTR-1/IFF (i.e. not appearing in GSTR 2A/2B), can be availed to the extent of 5% of eligible ITC appearing in GSTR 2A/2B(Earlier the limit was 10%).
New sub rule Rule 59(5) : Furnishing of Return	Taxpayers will not be allowed to furnish FORM GSTR 1 if they have not furnished their Form GSTR 3B for preceding two months . On similar lines if taxpayer has opted for QRMP scheme and has defaulted in filing Form GSTR 3B of previous quarter then subsequent filing of Form GSTR 1/IFF will not be allowed.
New sub Rule 86(B) : Restriction on use of amount available in electronic credit ledger.	<u>Mandatory tax payment of 1% of output tax liability in cash</u> : As per this new rule, where the value of taxable supply other than exempt supply and zero-rated supply in a month exceeds Rs 50 lakh , output tax liability in excess of 99% of such tax liability , will have to be discharged in cash.

[Notification No.94](#)

5. Waiver from recording of UIN on the invoices for the months of April 2020 to March 2021

CBIC Circular No.
144/2020 of Central Tax – **dated 15.12.2020**

CBIC had provided waiver from recording of UIN on the invoices issued by retailers/other suppliers to UIN entities till **31st March 2020**. UIN, is a special class of GST registration for foreign diplomatic missions and embassies which are not liable to taxes in the Indian territory)

Further, CBIC has decided to give waiver from recording of UIN on the invoices issued by the retailers/suppliers after 31st March 2020 to claim refund from **April 2020 to March 2021**.

[Circular No.144](#)

6. Auto population of details in Form GSTR-3B from Form GSTR 1 & GSTR 2B & Facility to file Annual return for FY 19-20.

GSTN News & Updates
– dated **10.12.2020 & 15.12.2020**

A] GSTR 9 for FY 19-20 : The facility to file annual return in **Form GSTR-9 for FY 2019-20** has been activated.

B] Auto population of details in Form GSTR-3B from Form GSTR 1 & GSTR 2B : Auto-population of system computed details in **Form GSTR-3B**, has been enabled for taxpayers (filing their Form GSTR-1 on monthly basis), from November 2020 tax period onwards. The same will be done based on the following:

- i) **Liabilities in tables-3.1 & 3.2 of Form GSTR-3B** (except Table-3.1 (d) pertaining to inward supplies liable to reverse charge), will be computed by the system on the basis of details of outward supplies as filed in Form GSTR-1 for the tax period.
- ii) **Input Tax Credit (ITC) details and details of inward supplies liable to reverse charge**, to be reported in Tables-4 and 3.1 (d) respectively, will be computed as per system generated Form GSTR-2B for the tax period.

[Advisory on auto population of details in GSTR 3B](#)

7. Extension of due date for furnishing Annual Return (GSTR 9) and Reconciliation Statement (GSTR 9C) for FY 2019-20

CBIC
Notification No.95/2020 – dated 30.12.2020 Press release – **dated 30.12.2020**

CBIC has **extended** the due dates for furnishing of **Annual Return (GSTR 9) and Reconciliation Statement (GSTR 9C) for FY 2019-20 from 31st December,2020 till 28th February,2021**.

[Press Release Notification No.95](#)

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month. Instead it is only a listing of some of the circulars/notifications that we considered important.



Lovi Mehrotra & Associates

Chartered Accountants

**21-22 IInd Floor Krishna Nagar Safdarjung Enclave
New Delhi 110029**

Website : www.lma.co.in • Email : g.aggarwal@lma.co.in