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TAX WEEKLY

A WEEKLY MAGAZINE OF RECENT UPDATES IN TAX REGIME.

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Companies (Auditor's Report) Order, 2020 - Highlights

The Central Government has notified the Companies (Auditor's Report) Order, 2020 (CARO, 2020) on 25.02.2020.

Every report made by the auditor u/s 143 of the Companies Act on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2019, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable. It shall not apply to the auditor's report on consolidated financial statements except clause (xxi) of paragraph 3.

www.pib.gov.in/PressReleaseDetail.aspx?PRID=1604390
http://www.mca.gov.in/Ministry/pdf/Orders_25022020.pdf

Applicability:

Every company including a foreign company Except:

- a. Banking Company
- b. insurance company
- c. section 8 Company
- d. One Person Company
- e. Private company – not being subsidiary or holding company of a public company
 1. having a paid up capital and reserves and surplus not more than one crore rupees as on the balance sheet date &
 2. does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year
 3. does not have a total revenue as disclosed in Scheduled III to the Companies Act (including revenue from discontinuing operations) exceeding ten crore rupees during the financial year.

Salient features of the CARO, 2020

1. The CARO, 2020 includes certain additional clauses, as compared to CARO, 2016, and the existing clauses of CARO, 2016 have been re-drafted to elicit detailed comments from the auditors.

<i>Para</i>
3(i) - Fixed Asset
3(ii) - Inventories
3(iii) - any guarantee or security or Loans secured or unsecured granted by company
3(iv) - Compliance of section 185 and 186 of Companies Act, 2013 w.r.t. in respect of loans, investments, guarantees, and security
3(v) - Deposits accepted by company
3(vi) - Maintenance of Cost Records
3(vii) - Statutory Dues payment
3(viii) - any transaction not recorded in books - surrendered or disclosed in tax assessments
3(ix) - Default in repayment of loans or other borrowings or in the payment of interest thereon to any lender
3(x) - Moneys raised by Initial Public Offer
3(xi) - Fraud
3(xii) - Nidhi Company
3(xiii) - Related Party Transactions
3(xiv) - Internal Audit System
3(xv) - Non Cash Transactions with directors /person connected with him
3(xvi) - Registration u/s 45- IA of RBI Act, 1934
3(xvii) - Cash Losses
3(xviii) - Resignation of Statutory Auditors
3(xix) - Uncertainty in repayment of Liabilities
3(xx) - Unspent amount on CSR Expenditure
3(xxi) - CARO for Consolidated Financial Statements

2. A specific format has been provided for reporting the details of such immovable properties whose title deeds are not held in the name of the company but are disclosed in the financial statements.
3. Disclosure of details of proceedings against the company for holding Benami Property and whether the company has disclosed the details in its financial statements.
4. Discrepancies of 10% or more in the aggregate of each class of inventory noticed during physical verification of inventory would have to be reported.
5. The auditor is to provide specific details as to whether during any point of time of the year, the Company has been sanctioned working capital limits in excess of Rs. 5 crores, in

aggregate, from banks or financial institutions on the basis of security of current assets and whether the quarterly returns/statements filed by the Company with such banks or financial institutions are in agreement with the books of account of the Company.

6. In clause 3(iii) of CARO, 2020, the auditor is to report in detail on the investments made by the company in, any guarantee or security provided or any loans or advances in the nature of loans granted, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties during the year, that they are not prejudicial to the interests of the company.
7. A specific format has been prescribed to report the period and the amount of default by the company in repayment of loans or other borrowings or in the payment of interest thereon to any lender.
8. The auditor is required to render his opinion on the basis of the financial ratios, ageing and expected dates of realization of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, that no material uncertainty exists as on the date of the Audit Report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date.
9. The amount of cash losses incurred in the financial year and in the immediately preceding financial year have to be reported.
10. The auditor has to take into consideration the issues, objections or concerns raised by the outgoing auditors before forming his opinion.
11. The auditor is required to report about the company if it is a declared wilful defaulter by any bank/ financial institution/ other lender.
12. The auditor would have to report as to whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used would have to be reported.
13. The auditor is required to report as whether any fraud by the company or any fraud on the Company has been noticed or reported during

the year; If yes, the nature and the amount involved is to be indicated.

14. The auditor is to consider whistle-blower complaints received during the year by the Company in his audit.
15. The auditor is to report if the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the RBI Act.
16. The auditor is now required to indicate the details of the subsidiary companies and the sub-clauses' number containing qualifications/adverse remarks by the respective auditors in the CARO reports of the companies included in the consolidated financial statements.

The CARO, 2020 is expected to significantly improve the overall quality of reporting by the Auditors on the financial statements of the Companies and thereby lead to greater transparency and faith in the financial affairs of the companies. This is automatically expected to greater inflow of investment by and in Indian companies.

Companies (Appointment and Qualification of Directors) Amendment Rules, 2020.

1. Every individual who has been appointed as an independent director in a company, shall within a period of ~~three~~ **five months** from such commencement; apply online to the institute for inclusion of his name in the data bank....
2. Now as per revised proviso it states that an individual shall not be required to pass the online proficiency self-assessment test, when he has served as a director or key managerial personnel, for a total period of not less than ten years, as on the date of inclusion of his name in the databank, in one or more, of the following, namely: -
 - (a) listed public company; or
 - (b) unlisted public company having a paid-up share capital of rupees ten crore or more; or
 - (c) body corporate listed on a recognized stock exchange.

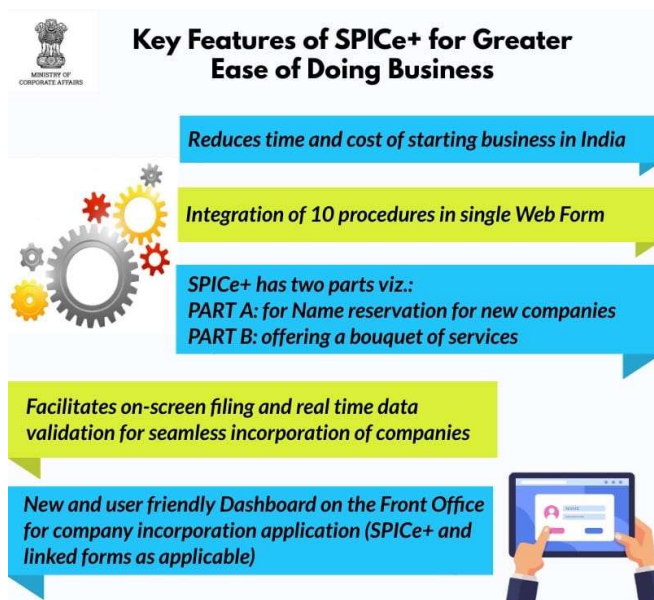
Facilitating transaction in Mutual Fund schemes through the Stock Exchange Infrastructure

Circular No. SEBI/HO/MRD1/DSAP/CIR/P/2020/29

Earlier, SEBI had permitted mutual fund distributors to use recognised stock exchanges' infrastructure to purchase & redeem MF units directly from Mutual Fund / AMC.

It has been decided to allow investors to directly access infrastructure of the recognised stock exchanges to purchase and redeem mutual fund units directly from Mutual Fund/ Asset Management Companies.

The recognised stock exchanges, clearing corporations and depositories may make necessary amendment to their existing byelaws, rules and/or regulations, wherever required.



Key Features of SPICe+ for Greater Ease of Doing Business

- Reduces time and cost of starting business in India
- Integration of 10 procedures in single Web Form
- SPICe+ has two parts viz.:
PART A: for Name reservation for new companies
PART B: offering a bouquet of services
- Facilitates on-screen filing and real time data validation for seamless incorporation of companies
- New and user friendly Dashboard on the Front Office for company incorporation application (SPICe+ and linked forms as applicable)

As part of Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs would be shortly notifying & deploying a new Web Form christened 'SPICe+' replacing the existing SPICe form.

SPICe+ would offer 10 services by 3 Central Govt Ministries & Departments (Ministry of Corporate

Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government(Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India and would be applicable for all new company incorporations w.e.f.23rd February 2020.

NBFCs having assets worth 100 Cr & above considered as Financial Institutions: Finance Ministry reduces Eligibility Limit for Debt Recovery

The Ministry of Finance has notified that Non-Banking Financial Institutions (NBFCs) having assets worth 100 Crore rupees and above can be conferred the status of Financial institutions.

Earlier the eligibility limit of debt recovery of NBFCs according to SARFAESI Act stood at Rs.500 Crore of asset size or loan size of Rs.1 Crore.

With this move, the new-found power of the NBFCs might closely be subjected to the regulations of the Central Government.

<https://www.taxscan.in/nbfc-assets-worth-100-cr-considered-financial-institutions-finance-ministry-debt-recovery/50762/>

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GST revamps its Help Desk **Introduces toll-free number in 12 languages for taxpayers**

GSTN has come up with a new GST help desk calling number '**1800 103 4786**' (from 9AM to 9PM, 7 days a week)

The existing contact number for the GST Helpdesk (0120-24888999) has been discontinued.

10 New Languages introduced on Helpdesk : indi, English, Bengali, Marathi, Telugu, Tamil, Gujarati, Kannada, Odia, Malayalam, Punjabi and Assamese.

Improved GRP: An improved version of Grievance Redressal Portal has been launched for creation of tickets by the taxpayers.

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Commission earned from auctioning of flowers: no exemption under GST

M/s International Flower Auction Bangalore Ltd (IFAB) is engaged in the activity of auctioning of high quality cut flowers of different varieties. IFAB provides a forum where wherein the flowers and other floriculture produce are bought and sold by the members of IFAB through the auction process.

Question was whether under entry no. 54(g) of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 i.e. Services relating to cultivation of plants and rearing of all life forms..... (g) Services of any agricultural produce marketing committee or board or services provided by a commission agent for sale or purchase of agricultural produce, whether services of IFAB under this clause is exempt?

Firstly, IFAB is not an APMC so we move on to next question whether it is a commission agent?

Commission agent is one who is appointed by this principal to purchase goods in the market on behalf of principal for which commission is charged by the agent.

IFAB falls under the category of “Auctioneer service” and they do not get categorized as “commission agent”. The nature of activities done by an auctioneer and a commission agent are fundamentally different even though both perform their function on behalf of principal.

IFAB is not eligible for exemption under the said entry 54(g). Further IFAB doesn't deal with agricultural produce as defined under para 2(d) of the Explanation to the notification no. 12/2017 CT(R) and for that reason that the respondent are not traders or wholesalers in the primary market.

IFAB by the virtue of providing auctioneer service is not eligible for benefits of the notification.

Appellate Authority for Advance Ruling:
Karnataka: International Flower Auction Bangalore Ltd.

VIVEK ANANTH

STATISTALK

Overestimation of tax revenues?

The Centre has been quite optimistic about the tax revenue projections. This is despite the shortfall in actual collections in most years. While the lower collection of customs and excise duty can be linked to economic growth, the estimation of direct tax revenues needs to be more realistic.

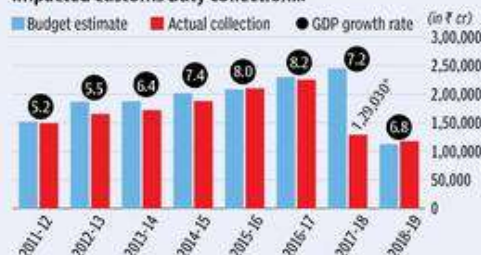
Except for two years, actual corporate tax mop-up has not met its budgeted amount...



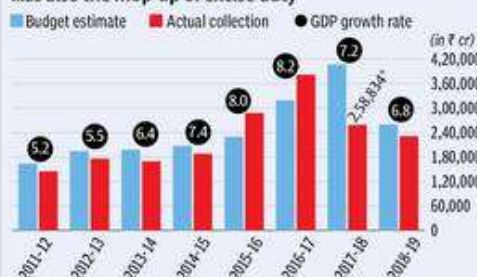
...while income tax collection, including personal income tax, has never managed to meet its budgeted target



Vagaries in economic growth may have impacted customs duty collection...



...as also the mop-up of excise duty



*Additional customs duty (equivalent to excise duties for similar domestic goods) and excise duties on almost all goods excluding petrol, diesel, ATF, alcohol, etc were subsumed under GST
Source: Budget documents



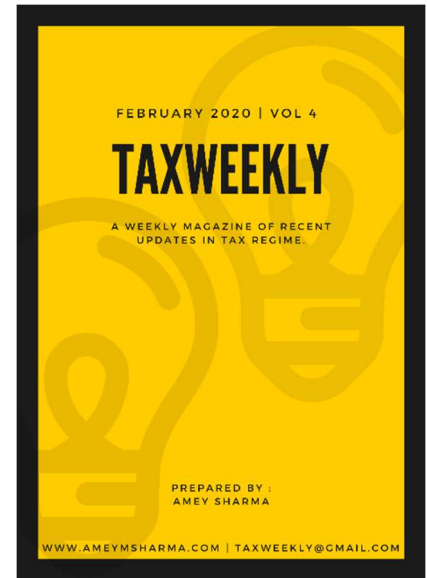
Graphic: Visveswaran V

PREVIOUS EDITIONS



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I am a student pursuing chartered accountancy course and currently undergoing Articleship at M. Sharma S. Agrawal & Co. Nagpur. I have interests in field of direct and indirect taxation. I have presented papers on the same at the ICAI student conferences and also written various articles on GST and income tax at various platforms.



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