

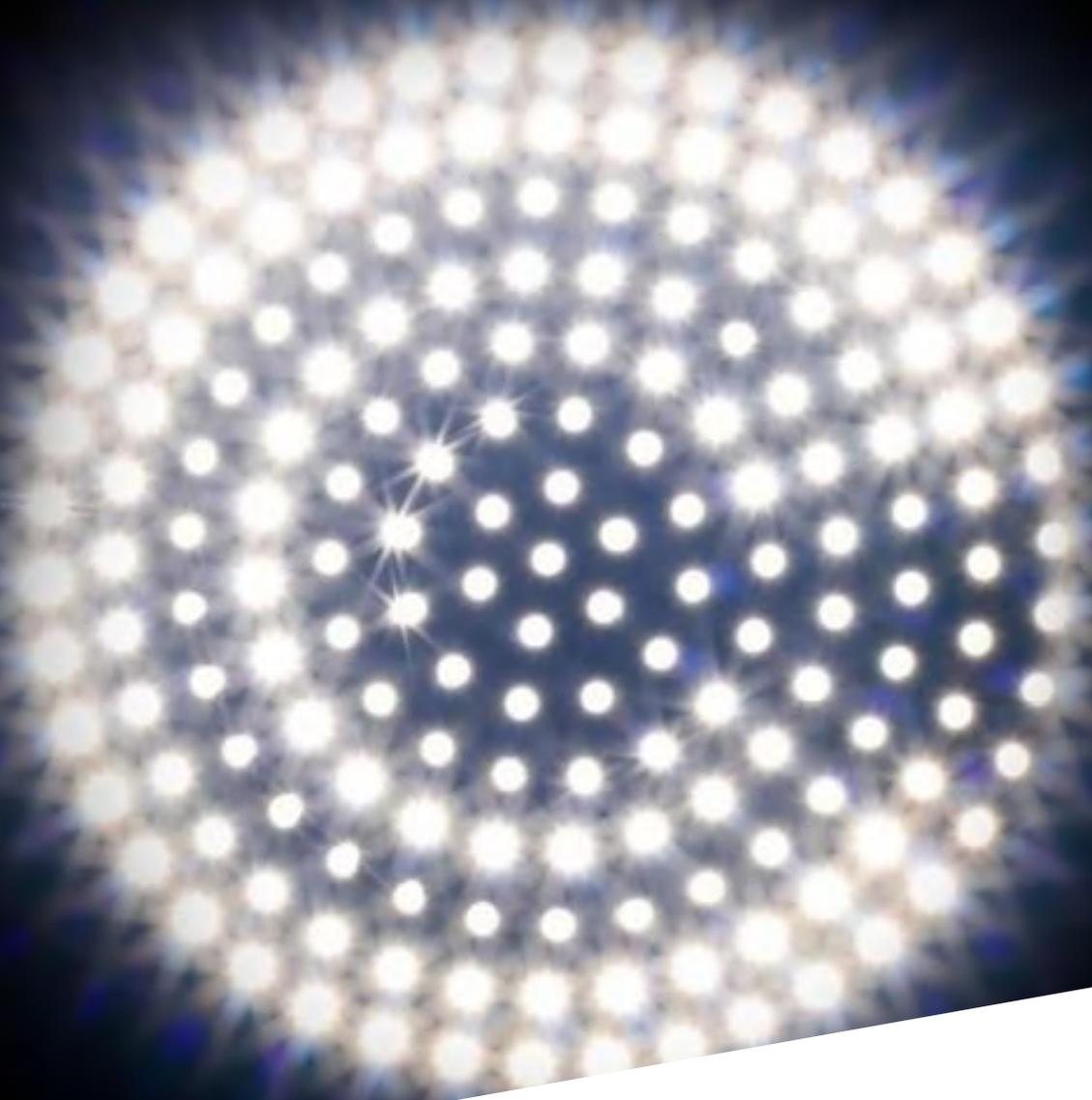
# TAXATION TIMES

October 2020



Taxation Times is a monthly newsletter published by UJA specifically with an intent and object to simplify and provide clarity on certain provisions of the Income Tax Act, discuss the implications of various amendments and circulars notified time and again, understand the judicial precedents as decided by various courts and interpret these.

The Taxation Times is an initiative to keep you abreast with the latest development in the realm of the Direct Taxes in India.



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Speaking about 2020, the year has come with a lot of surprises, some pleasant and most not so pleasant. The whole world is witnessing a new phase of life which nobody predicted. Though this has led to a downward slope for many it has also given everyone a sense of responsibility and maybe on a positive side we can all learn our own lessons and grow from this.

The pandemic has brought about this wind of change where countries around the world are focusing on the need of self-reliance alongside globalization. Active steps are being taken by countries to overcome the losses caused by the pandemic and this only showcases the immeasurable potential of human mind as the diversity in ideas to fight back this year is vast and so very different.

This month's Taxation Times brings the following to the table:

- Introduction of TCS on sale of goods which is applicable right away from the 1<sup>st</sup> of October.
- How the WFH environment is affecting our pockets in relation to tax.
- Recent Decisions by the Tribunal and the High Court.
- A Did You Know Series to state the news running around Direct Taxes.
- Circulars, Notifications, Press Releases in the last month and the upcoming compliances for October 2020.

We hope that you find this edition of the Taxation Times useful.

Do you have any inputs to make the forthcoming issues of the Taxation Times more useful & relevant? Please share your feedback on [info@uja.in](mailto:info@uja.in).

We look forward to hearing from you!

Best Regards,  
UJA Tax Team



## Does the new provision of TCS on sale of goods apply to you?

A new provision was introduced in the Finance Act, 2020 – **Section 206C (1H)** under the Indian Income Tax Act, 1961. The provision comes into effect from **1<sup>st</sup> of October 2020**. This provision is applicable for any seller who receives any amount as sale consideration for sale of goods and where the value or aggregate of such **value of these goods exceeds INR 50, 00,000 in any previous year**. The seller is then required to collect from the buyer at the time of receipt of such amount, a sum equal to **0.1 percent** of the sale consideration exceeding INR 50, 00,000 as income tax on the same.

Although the provision specifies a rate of 0.1%, considering the current scenario the rate has been **temporarily reduced to 0.075% till 31<sup>st</sup> March, 2021**. It is also required that the buyer have a valid PAN or Aadhar, in case the buyer does not possess one the rate of TCS applicable **will be 1%**.

The following categories of transactions have been **excluded** from the purview of applicability of this section:

- If goods are of such type on which TDS is eligible to be deducted by the buyer.
- If the seller is liable to deduct TDS under any other clause of s. 206C (e.g. sale of motor vehicle, sale of scrap etc.)
- When goods are exported outside India.
- When goods are sold to persons who is excluded from the definition of 'buyer'.

### Key Points to be considered:

- For the purpose of this provision, seller is defined as a person whose total sales, gross receipts or turnover from the business carried on **exceed INR 10 Crore** during the financial year immediately preceding the financial year. Sale of services is not covered in this provision. Thus, incase during FY 2019 – 2020, turnover exceeded INR 10 crores, for FY 2020 – 2021, w.e.f 1<sup>st</sup> October 2020, this provisions become applicable.
- Buyer is defined as a person who purchases goods but does not include 1. the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State 2. A local authority as defined in the Explanation to clause (20) of section 10. 3. A person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.
- The word consideration has not been defined but in a normal parlance or a it means a certain compensation, reward or payment. Hence, we can say that any amount payable by the buyer to the seller under a contractual agreement shall be called as consideration.
- Since this provision is applicable based upon the turnover in the previous financial year, the provision may be applicable to the taxpayer in one financial year and not applicable in another financial year.

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- Invoice raised including the amount of TCS may help in simplifying the compliances u/s 206C (1H).
- Rate specified is 0.1% but will be 0.075% till 31<sup>st</sup> March 2021 and 1% for those buyers with no valid Aadhar or PAN.
- The section is applicable for transactions exceeding INR 50 lakhs only.

### Is Work from Home easing your taxes or adding up to your taxes?

With the rising cases of COVID-19 and the fear psychosis related with the pandemic many workplaces have allowed their employees to work from home as a preventive measure. Most of these companies especially the IT Sectors are extending the work from home period till the end of 2020. The prolonged period of work from home has made us all enter into our comfortable zones and has created a safe environment for work. However, it's not always too good and every comfort comes with its own cons.

Did any of us think about how working from our own comfort zones at home may be heavy to our pockets? Here's how you may end up paying high taxes if this pattern of working continues.

The new normal of 'Work from Home' has enabled many to relocate back to their hometowns, this in turn has been a saving for the rent payments but it has also disabled the option of claiming HRA in the income tax returns. If you are a salaried employee this might concern you. Let's understand how HRA works and reduces the taxable income:

HRA is claimed under section 10(13A) of the Income Tax Act, 1961. Under this section if an employee pays rent and HRA is a component of his salary, then this rent paid becomes eligible for an exemption.

The quantum of HRA one can claim depends on the actual rent paid or the HRA paid. Also, the city where one lives in forms an important part of this calculation as it is different for a metro and a non-metro city.

#### One can claim the minimum of three as HRA exemption:

- Actual HRA received.
- 50% or 40% of salary received in case of a metro or non-metro city respectively.
- Excess of rent paid over 10% of basic salary.

Considering that actual rent paid in the months of work from home would be nil, the amount of HRA received in the hands of the employee for these months would become taxable and form a part of his gross total income.

So this is probably a wakeup call to be aware that even though your costs must've reduced during the pandemic, your taxable income may rise. Many organizations also offer employees a travel allowance to compensate for their travel expenses. This becomes tax free in the hands of the employees only when it is actually incurred. Since this expense is not being incurred, the allowance received will add up to the salary income.

The benefit of Leave Travel Allowance (LTA) may also not be available to employees this year since the chances of taking a vacation amidst the pandemic seem bleak. Hence, claiming a deduction towards LTA isn't an option either thus increasing the taxable salary.

Given this, it is safe to say that, even though this pandemic has come around giving us the ease of working from our homes, it has also increased our taxable pocket cost.





## Recent Case Laws

“ Recently the High Court of Madras held that where the plant and machinery has been purchased in the second half of the financial year, additional depreciation under section 32(1) (ia) claimed in the subsequent year has to be allowed. ”

### Case Walkthrough:

The taxpayer<sup>1</sup> is a private limited company and has purchased an asset during the second half of FY 2007-08 on which additional depreciation was claimed for less than 180 days i.e. at 10%. During AY 2009 – 2010 (the subsequent year), the taxpayer claimed additional depreciation of 10% the case was opened for scrutiny and the returned was accepted. However, subsequently, the case was reopened under section 147 by issuing a notice under section 148 of the Income Tax Act, 1961 ('ITA') and the reason being that s. 32(1) (ia) of the ITA specifies that depreciation cannot be claimed for the whole year when the asset is put to use for less than 180 days in the said year but the section remains silent about the arrears being carried forward as deduction for the next assessment year. Accordingly, the AO disallowed the claim of the taxpayer and added the same to the total income of the taxpayer.

The taxpayer preferred an appeal before the Hon'ble CIT (A) and followed the decision of M/s Addison Company<sup>2</sup> while doing so.

Aggrieved by the order of the CIT (A), the revenue carried the appeal to the Tribunal wherein the appeal of the Revenue was dismissed.

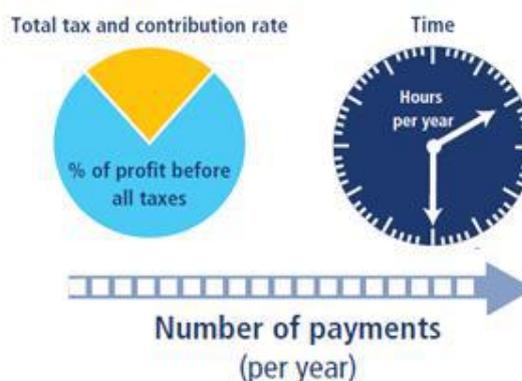
The Revenue has now filed an appeal before the Hon'ble High Court.

### Matters before the High Court:

Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is eligible to carry forward the unabsorbed additional depreciation as per the provisions of Section 32(1) (ia)?

### Decision :

1. The Tribunal relied on the decision of Brakes India Limited, Rittal India Limited<sup>3</sup> which allowed the claim of the taxpayer of additional depreciation.
2. The Sr. Council for the taxpayer that the claim of the balance 50% amount of deduction was provided for inserting the proviso under s. 32(1) & such insertion was w.e.f 1.04.2016 by Finance Act 2015. The Hon'ble HC held that the insertion of the proviso in 2016 may not have a bearing on the present issue as the present case refers to AY 2009 – 2010.
3. However, the Hon'ble Supreme Court vide its order dtd. 24<sup>th</sup> September 2018 has allowed the claim of the taxpayer in Brakes India<sup>4</sup> Relying on the said decision the High Court allowed the claim of the taxpayer.



<sup>1</sup> Commissioner of Income Tax V/s Aztec Auto (P) Ltd. [2020] 119 taxmann.com 215 (Madras)

<sup>2</sup> M/s Addison & Company V/s DCIT [ITA No. 2198/Mds/2015 dtd. 4.03.2016]

<sup>3</sup> High Court of Karnataka – CIT V/s Rittal India (P) Ltd 380 ITR 423

<sup>4</sup> Brakes India – Supreme Court in S.L.P (C) No. 033755/2017

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“ Where the taxpayer has a turnover exceeding INR 1 Crore and files his income tax return with profit lesser than 8% of the turnover and also has not got his books of accounts audited, the revenue can tax his income at a higher profit percentage. ”

### Case Walkthrough:

The taxpayer<sup>1</sup> is carrying out a business of hardware goods and has filed his return of income for the AY 2014-15 in response to notice under section 148 of the Income Tax Act, 1961 (hereinafter referred to as 'ITA') The e turnover of the taxpayer was INR 22359967/- and the net profit declared was 0.99%. The taxpayer did not get his books audited under s. 44AB, though applicable The Ld. Assessing Officer ('AO') during the course of assessment proceedings stated that since the turnover of the taxpayer exceeds INR 1 crore and he has failed to get his books audited by a Chartered Accountant, the estimation of income lower than 8% was not acceptable. Hence, the AO determined a profit of 8% of the turnover and the amount was added back. Aggrieved the taxpayer carried the matter before the CIT(A) who reduced the estimated profit on turnover from 8% to 5% Aggrieved by the order of the CIT (A) the taxpayer is in appeal before the ITAT.

### Matters before the Authority:

Was the CIT (A) correct in upholding the addition made by the AO on presumptive basis merely because the assessee has not complied with the law to get his books of accounts audited by a chartered accountant when there are other penalties for such failures?

### Decision:

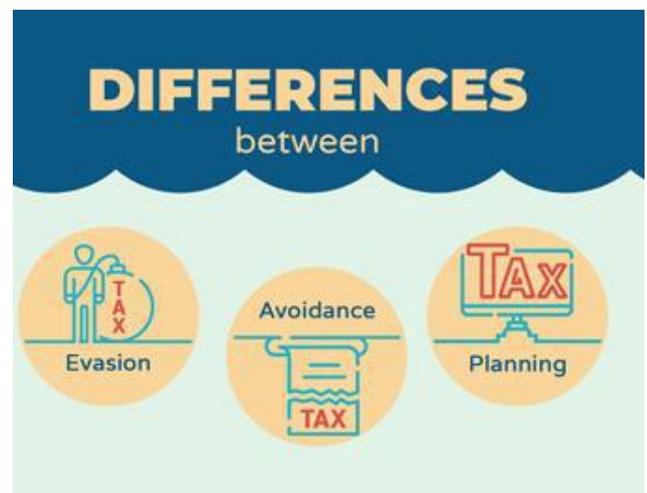
The Ld. Counsel of the assessee has reiterated the submission made before the Id. CIT (A) and the Id. DR for the Revenue has also primarily reiterated the stand taken by the assessing officer.

1. The Ld. Council for the taxpayer was asked to submit a comparative chart of profitability statement of the earlier years of the taxpayers business. However, since the same could not be produced, the taxpayer submitted a comparative chart of profitability for the subsequent years (i.e. after AY 2014 – 2015) the taxpayer has submitted the books of accounts for the

three subsequent years and the profit percentage noted in the same was 2.64%, 2.65% and 4% respectively. The average of the same comes to 3.09%.

2. The Ld. Dr was to submit a comparative profitability chart of identical businesses prior to AY 2014 – 2015, however the Ld. DR expressed his inability to do so.
3. The Tribunal pointed out that during the course of assessment the AO has not rejected the expenses and income filed by the taxpayer. No defect/error was pointed out by the AO in the bills / vouchers submitted by the taxpayer and an estimation of 8% was made. The Tribunal also stated that the AO could venture into estimation only if books of accounts of the taxpayer were rejected under s. 145(3) and best judgement under s. 144 was made. Thus, the AO has merely on the basis of surmises and conjectures stated that the taxpayer is inflating it's expenses and showing a net profit at a very low rate.
4. Based on the factual findings, the Tribunal adopted a net profit of 2.5% thus arriving at an estimated income of INR 5,58,999/-

As a result, the appeal of the taxpayer is partly allowed.



<sup>1</sup> Sayqil Islam V/s Income Tax Officer [2020] 118 taxmann.com 347 (Guwahati – Trib)



## DID YOU KNOW?

### News About Taxation You Need to Know Right Now!

- The Maharashtra Government has temporarily reduced the stamp duty on flats from 5% to 2% till the 31<sup>st</sup> of December and to 3% for the period between January to the end of March 2021. This is to give a boost to the stagnant real estate market. Builders have been seeking for this reduction since the lockdown to attract buyers.
- The Government has garnered INR 9,538 Crore from the Direct Tax Dispute Scheme so far. This was introduced in the Union budget speech by the Finance Minister on the 1<sup>st</sup> of February named 'Direct Tax – Vivad se Vishwas'
- Income Tax Refunds to the tune of INR 88,652 Crore has been issued to 24.64 lakh taxpayers so far since April 2020.
- The Income Tax Department will share bank account details along with the PAN, TAN and IT Return Summary with 10 probe and Intel agencies including the CBI and NIA according to an official order.
- The Government looks to extend faceless assessment scheme to 8 more Income Tax Proceedings. Currently this is already implemented for scrutiny assessments but the Government has proposed to extend the same to more such sections such as faceless enquiry or valuation and faceless collection of information.

# Due dates for Compliance under Income tax

- Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of August, 2020\*
- Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of August, 2020\*
- Due date for issue of TDS Certificate for tax deducted under Section 194M in the month of August, 2020\*
- Quarterly statement of TCS deposited for the quarter ending September 30, 2020\*

- Quarterly statement of TDS deposited for the quarter ending September 30, 2020\*

7<sup>th</sup>  
Oct 2020

- Due date for deposit of tax deducted/collected for the month of September, 2020. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
- Due date for deposit of TDS for the period July 2020 to September 2020 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H Due date for deposit of TDS for the period July 2020 to September 2020 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

15<sup>th</sup>  
Oct 2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of September, 2020\*

30<sup>th</sup>  
Oct 2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of September, 2020\*
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194M in the month of September, 2020\*

31<sup>st</sup>  
Oct 2020

- Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2020\*

\* Note: Please also refer The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No. 35 /2020, dated 24-06-2020 and Notification No. 56/ 2020, dated 29-07-2020.



## Notifications & Circulars

### Notification :

1. The CBDT has notified the Faceless Appeal Scheme, 2020.

[https://www.incometaxindia.gov.in/communications/notification/notification\\_76\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_76_2020.pdf)

2. Procedures in reference with the Faceless Appeal Scheme were also notified.

[https://www.incometaxindia.gov.in/communications/notification/notification\\_77\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_77_2020.pdf)

### Disclaimer

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