

Synopsis

Companies Act, 2013

Direct Taxes

Indirect Taxes

Jun

Jul

Aug

Sep

Oct

Nov

SYNOPSIS

1. Companies Act, 2013 Updates:

- i. Extension of time limit to hold Annual General Meeting (AGM) for the financial year ended at 31.03.2020
- ii. Covid-19 Research and Development of new vaccine, drugs and medical devices will be allowed as CSR to Companies.
- iii. Amendments in the Companies (Acceptance of Public Deposit) Rules, 2016.

2. Direct Tax Updates:

- i. Class of persons not required to obtain PAN
- ii. Faceless assessment procedure

3. Indirect Tax Updates:

- i. Interest on delay in payment of tax under GST on net tax liability.
- ii. Annual return filing due date for FY 2019-20 by composition tax payers extended till October 31, 2020

Companies Act 2013



UPDATES IN THE COMPANIES ACT, 2013

A. Extension of Annual General Meeting (AGM) for the financial year ended as at 31.03.2020:

As per section 96 of the Companies Act 2013 ("CA-13"), every company other than one-person company must hold an annual general meeting ("AGM") of its shareholders in each year and not more than 15 months shall elapse between the date of one AGM and that of the next.

The ministry of corporate affairs ("MCA") had previously allowed the companies to hold AGM's virtually using video conferencing ("VC") or through other audio-visual means ("OAVM") vide circular no. 20/2020 dated May 05, 2020.

However, where companies are unable to hold their AGM for the year ended March 31, 2020 despite providing the above relaxation, they can file an application in Form no. GNL 1 for extension of time in holding the AGM for the financial year ended March 31, 2020 with concerned Registrar of Companies (ROC) on or before September 29, 2020.

The registrar shall examine the application filed by stakeholder and grant extension for the period applied for or up to the maximum of 3 months. This implies that the maximum period of extension available to any company to hold its AGM is on or before December 31, 2020.

Above is as per General Circular No.28/2020 dated August 17, 2020

Subsequently, the Ministry of Corporate Affairs, the Office of the Registrar of Companies, Karnataka issued another notification providing an extension of three months to hold the AGM of the Companies under the jurisdiction of the ROC, Karnataka without requiring to apply for extension of AGM by filing an application in Form GNL 1. The Registrar also clarified that the extension has been granted under this order to the Companies who have already applied for the extension by filing Form GNL 1.

Refer the following link for detailed notification: [Extension of AGM](#).

Also, ROC's of the different states have also issued similar notifications, details are available in the following link: [AGM Extension notifications](#)

B. Companies (Corporate Social Responsibility Policy) Rules, 2014:

1. Section 135 the CA-13 prescribes that companies shall ensure that they spend at least 2% of the average net profits made by the Company during the three immediately preceding financial years or where the companies have not completed the period of three financial years since its incorporation, during such immediately preceding financial years on activities referred in Schedule VII.
2. For the Companies engaged in the activity of research and development of new vaccine, drugs and medical devices in their normal course of business, the MCA vide its circular dated August 24, 2020 has allowed amount spent towards research and development of new vaccine, drugs and medical devices related to COVID-19 as CSR activities for the financial years 2020-21, 2021-22 and 2022-23, subject to the conditions that:
 - i) Such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the CA-13.
 - ii) Details of such activities shall be disclosed separately in the Annual Report on CSR included in the Board's Report.

Also, the MCA has omitted the words *"excluding activities undertaken in pursuance of the normal course of business"* from sub-rule 1 of Rule 4 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 ("CSR Rules") and a Proviso stating *"Provided that the CSR activities does not include the activities undertaken in pursuance of normal course of business of a Company"* has been omitted from sub-rule (1) of Rule 6 of CSR Rules.

3. In order to give the benefit mentioned in the point no. 1 above to more entities who are engaged in research and development, MCA vide its circular dated August 24, 2020 substituted the item no. (ix) of Schedule VII as below:
 - (ix)(a) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and
 - (ix)(b) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE) Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defence Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

C. Companies (Acceptance of Public Deposit) Rules, 2016:

The period of holding of the Convertible notes issued by a start-up company under sub-clause (xvii) of clause (c) of sub-rule (1) of Rule 2 of the Companies (Acceptance of Public Deposit) Rules, 2016 ("Public Deposit Rules") has been extended from five years to ten years vide MCAs circular dated September 07, 2020. Similarly, the amendment has been made to the second proviso to the sub-rule (3) of Rule 3 of Public Deposit Rules.

Consequent to the above amendment, an amount of INR 25 lakhs or more received by a start-up company by way of a convertible notes issued in a single tranche, repayable within a period of 10 years are excluded from the definition of public deposits under clause (c) of sub-rule (1) of Rule 2 of the Public Deposit Rules.



DIRECT TAX UPDATES

A. Class of persons not required to obtain PAN (Section 139A read with rule 114AAB of Income tax Act and related rules):

Section 139A shall not apply to a Non-Resident ("NR"), not being a company/foreign company who has made investment in a specified fund during the previous year if the following conditions are satisfied:

- a) The NR does not earn any income in India, other than income from investment in the specified fund during the previous year.
- b) Any Income-tax due on income of non-resident has been deducted at source and remitted at the rates specified in section 194LBB of the Act.
- c) the NR furnishes the following details and documents to the specified fund, namely:
 - Name, E-mail id, contact number;
 - Address in the country or specified territory outside India of which he is a resident;
 - A declaration that he is a resident of a country or specified territory outside India; and
 - Tax Identification Number in the country or specified territory of his residence/ unique number of Identification given by the government of such country.

The Specified fund* shall furnish a Quarterly statement for the Quarter of the financial year in which documents as referred in Point C above are received by it, in **Form 49BA** to Income tax department.

Notification link: https://www.incometaxindia.gov.in/communications/notification/notification_58_2020.pdf

**Specified Fund means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under SEBI (Alternative Investment Funds) Regulations, 2012 and which is located in any International Financial Services Centre.*

B. Faceless assessment procedure notified by CBDT:

CBDT has notified the procedure for assessment under Faceless assessment. The National e-Assessment centre will serve a notice to the assessee specifying the issues for selection of his case for assessment. The assessee may within fifteen days from the date of receipt of notice, file his response to the National e-assessment Centre;

The Case shall then be allocated to Regional e-assessment Centre through an automated allocation system. All communications between the National e-assessment Centre and the assessee shall be exchanged exclusively by electronic mode. Authentication of documents submitted electronically shall be through Digital signature or through electronic code.

Kindly refer the following link for the detailed procedure:

- 1) [Notification No. 60](#)
- 2) [Notification No. 61](#)



INDIRECT TAX UPDATES

A. Goods and Services Tax Updates:

1. Notification No. 62/2020 - Central Tax dt. August 20, 2020: Central Goods and Service Tax (Tenth Amendment) Rules, 2020

Sl. No.	Rule No	Amendment
1	8(4A) – Application for registration	With effect from August 21, 2020, while submitting application for registration an applicant may opt for authentication of Aadhaar number and date of submission of application in such cases shall be the date of authentication of the Aadhaar Number or fifteen days from the submission of the application <i>whichever is earlier</i> .
2	9(1) & 9(2) – Verification of the application and approval	With effect from August 21, 2020, in case applicant fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number, <ul style="list-style-type: none"> - The registration shall be granted only after physical verification of the place of business in the presence of the applicant. - The notice in Form GST REG-03 may be issued <i>not later than twenty-one days</i> from the date of submission of the application
3	9(5) – Verification of the application and approval	<u>The application for grant of registration shall be deemed to have been approved if the proper officer fails to take any action:</u> <ul style="list-style-type: none"> - Within a period of <i>three working days from the date of submission of the application</i> in cases successful authentication of Aadhaar Number; Or - Within a period of <i>three working days in case of failure of authentication of Aadhaar Number</i>; Or - Within a period of <i>twenty one days from the date of submission of the application</i> in cases where a person does not opt of authentication of Aadhaar Number; Or - Within a period of <i>seven working days from the date of receipt of the clarification, information or documents</i> furnished by the applicant

4	25 – Physical Verification of Business premises in certain cases	With effect from August 21, 2020 the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication or due to not opting for Aadhaar authentication then he shall verify the same before the grant of registration.
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- Notification No. 63/2020-Central Tax dt. August 20, 2020: Amendment to Section 50 – interest on delay in payment of tax shall be levied on net tax liability paid through cash, made effective from September 01, 2020
- Notification No. 64/2020-Central Tax dt. August 31, 2020: Due date for filing of Annual return in Form GSTR 4 for the financial year 2019-20 by composition tax payers has been extended till October 31, 2020.
- Notification No 65/2020-Central Tax dt. September 01, 2020: Time limit for completion or compliance any action, by any authority under Anti-Profiteering Measure which has been specified in or notified under section 171 and which falls during the period from March 20, 2020 to November 29, 2020, has been extended till November 30, 2020
- GST Case Laws:

In the Case of	Date of ruling	Matter Related to	GIST of the case
VKC Footsteps India Private Limited Vs Union of India	July 24, 2020	Refund claim of Unutilized Input Tax Credit on Input Services in case of Inverted Duty Structure	<p>VKC Footsteps India Private Limited is engaged in the business of manufacture and supply of footwear which attracts GST @ 5%. Petitioner has input services such as Job work, GTA & Inputs. Majority of the inputs and input services attract GST @ 12% or 18%. GST input rate is higher than the GST output rate, hence there is an accumulation of unutilized credit in the electronic credit ledger.</p> <p>The petitioner had challenged the virus of rule 89(5) which is not consistent with section 54(3) and against the objects of most historic Goods and Service Tax Law.</p> <p>Section 54(3) of CGST Act, 2017 is the governing section for claiming refund of accumulated unutilized input tax credit.</p> <p>Rule 89(5) of the CGST Act, 2017 specifies the manner of computation of refund amount, which got amended twice by notification no 21/2018-CT dt April 18, 2018</p>

			<p>and notification no 26/2018-CT dt. June 13, 2018, wherein the said rule was amended giving retrospective effect from July 01, 2017, to exclude the refund of tax paid on input services.</p> <p>Gujarat High Court held that, from the conjoint reading of the provisions of Act and Rules, it appears that prescribing formula in Rule 89(5) of the Act, to exclude the refund of tax paid on “input service” as a part of the refund of the unutilized input tax credit is contrary to the provisions of Section 54(3) of the Act.</p> <p>In view of the analysis of provisions of the Act and Rules with reference to definition of input tax credit, input tax and inputs and keeping in mind scheme and object of the CGST Act, the intent of the Government by framing the Rule restricting the statutory provision cannot be the intent of the law, to deny the registered person refund of tax paid on “input services” as part of any unutilized input tax credit.</p>
Material Recycling Association of India Vs Union of India	July 24, 2020	Intermediary Services in Cross Border Transactions are liable to CGST & SGST and it is not ultra-virus	<p>Material Recycling Association of India is an association comprising of recycling industry engaged in manufacture of metals and casting etc., for various upstream industries in India. The members of the petitioner also act as agents for scrap, recycling companies based outside India engaged in providing business promotion and marketing services for principals located outside India, they also facilitate sale of goods by foreign principals in non-taxable territory to their customers, who are also located in non-taxable territories.</p> <p>The Members of the petitioner have no role to play in the actual sale and purchase of recycled scrap as the goods supplied by foreign clients to its purchasers are directly shipped by the foreign client to the Indian or Overseas purchaser.</p> <p>Member of the association receives only commission upon receipt of sale proceeds by its foreign client.</p> <p>Petitioner’s plea is parliament is not authorised to legislate and artificially assign the place of supply to be within India when clearly the services are being exported out of India.</p>

			<p>Though the services are rendered outside India, the member of the petitioner association is subjected to make the payment of CGST and SGST in view of the provisions of Section 13(8)(b) of the IGST Act, 2017 i.e. place of supply of services shall be the location of the supplier of services, as the services would not be considered as export of services, but same would be considered as intermediary services.</p> <p>The Court has ordered that the basic underlying change brought in by the GST regime is to shift the base of levy of tax from point of sale to the point of supply of goods or services.</p> <p>In that view of the matter, Section 13(8)(b) of the IGST Act, 2017 which is framed by the parliament in consonance with Article 246(2) of the Constitution of India is required to be considered, in view of this it cannot be said that the provision of Section 13(8)(b) read with Section 2(13) of the IGST Act, 2017 is ultra-virus or unconstitutional in any manner.</p>
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B. Customs:

- Notification No. 32/2020-Cus (NT) dt. August 07, 2020:** Amendment to notification No 50/2017 - Customs dt June 30, 2017, to include Kudankulam Nuclear Power Project (KKNPP) Units - 5 and 6 (1000 MW x 2) in list 32 from exemption of Custom duty on import of goods required for setting up nuclear power project.
- Notification No. 67/2020-Cus (NT) dt. August 04, 2020:** Amendment to Notification No.12/1997- Customs (NT), dated April 02, 1997 to include the port Village Dabgram, Tehsil Bhakti Nagar, District Jalpaiguri in the state of West Bengal for the purpose of Unloading of imported goods and loading of export goods.
- Notification No. 72/2020-Cus (NT) dt. August 14, 2020:** Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.
Detailed notification is available at: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt72-2020.pdf>
- Notification No. 75/2020-Cus (NT) dt. August 17, 2020:** Manufacture and Other Operations in Special Warehouse Regulations, 2020

Detailed Notification is available at (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt75-2020.pdf>)

5. **Notification No. 76/2020-Cus (NT) dt. August 17, 2020:** Amendment has been made to Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt76-2020.pdf>)

6. **Notification No. 77/2020-Cus (NT) dt. August 17, 2020:** Amendment has been made to Special Warehouse (Custody and Handling of Goods) Regulations, 2016. Regulation No. 13 Non-applicability of regulation in certain cases has been inserted.

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt77-2020.pdf>)

7. **Notification No. 78/2020-Cus (NT) dt. August 19, 2020:** Amendment has been made to Notification No.135/2016-Customs (N.T.) dated November 02, 2016 to include Authorized Public Undertakings in class of importers for deferred payment of import duty.

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt78-2020.pdf>)

8. **Notification No. 79/2020-Cus (NT) dt. August 19, 2020:** Amendment has been made to Notification No.134/2016-Customs (N.T.) dated November 02, 2016 for omitting Rule 4 of Deferred Payment of Import Duty Rules, 2016 – Information about intent to avail benefit of the Deferred Payment of Import Duty by the eligible importer.

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt79-2020.pdf>)

9. **Notification No. 81/2020-Cus (NT) dt. August 21, 2020:** Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 - effective from September 21, 2020

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt81-2020revised.pdf>)

10. **Notification No. 82/2020-Cus (NT) dt. August 21, 2020:** Nashik Airport has been notified as International Courier Terminal.

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt82-2020.pdf>)

11. **Notification No. 83/2020-Cus (NT) dt. August 31, 2020:** Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt83-2020.pdf>)

- 12. Notification No. 84/2020-Cus (NT) dt. September 03, 2020:** Exchange Rate Notification
Detailed notification is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt84-2020.pdf>)
- 13. Notification No. 22/2020-Customs (ADD) dt. August 10, 2020:** To impose anti-dumping duty on imports of Black Toner in Powder Form originating in or exported from China PR, Malaysia, and Chinese Taipei for a *period of Six months*.
Detailed notification is available at: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd22-2020.pdf>
- 14. Notification No. 23/2020-Customs (ADD) dt. August 11, 2020:** Notification No. 39/2015 – Customs (ADD) dt. August 12, 2015 has been amended to extend the levy of Anti-Dumping Duty on import of flax fabrics from China and Hong Kong for a period of 3 months i.e. up to November 11, 2020.
- 15. Notification No. 24/2020-Customs (ADD) dt. August 14, 2020:** Notification No. 41/2015 – Customs (ADD) dt. August 17, 2015 has been amended to extend the levy of Anti-Dumping Duty on imports of DiketopyrroloPyrrole Pigment Red 254 (DPP Red 254) originating in or exported from China PR for a period of 3 months i.e. up to November 16, 2020.
- 16. Notification No. 25/2020-Customs (ADD) dt. August 17, 2020:** Notification No. 42/2015 – Customs (ADD) dt. August 18, 2015 has been amended to extend the levy of Anti-Dumping Duty on imports of Caustic Soda originating in or exported from China PR and Korea RP, for a period of 3 months i.e. up to November 17, 2020.
- 17. Notification No. 26/2020-Customs (ADD) dt. August 21, 2020:** Imposition of anti-dumping duty on the imports of Phosphoric Acid of all grades and concentrations (excluding Agriculture or Fertilizer grade), originating in or exported from Korea RP for a period of five years.
- 18. Notification No. 27/2020-Customs (ADD) dt. August 21, 2020:** Amended notification No. 46/2015- Customs (ADD), dated September 04, 2015 to extend the levy of Anti - Dumping Duty on imports of "Acrylonitrile Butadiene Rubber" originating in or exported from Korea RP, for a period of three months i.e. up to December 03, 2020.
- 19. Notification No. 28/2020-Customs (ADD) dt. September 02, 2020:** To impose anti-dumping duty on imports of Ciprofloxacin Hydrochloride originating in or exported from China PR, for a period of Six months.
Detailed notification is available at: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd28-2020.pdf>

- 20. Notification No. 29/2020-Customs (ADD) dt. September 02, 2020:** Notification No. 47/2015 – Customs (ADD) dt. September 08, 2015 has been amended to extend the levy of Anti-Dumping Duty on import of Float Glass from China PR for a period of 3 months i.e. up to December 07, 2020.
Detailed notification is available at: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd29-2020.pdf>
- 21. Circular No. 35/2020-Customs August 10, 2020:** Revised procedure for Import of Pets/Live Animals.
Detailed Circular is available at: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-35-2020.pdf>
- 22. Circular No. 36/2020-Customs August 17, 2020:** Procedure to be followed in cases of manufacturing or other operations undertaken in special warehouses under section 65 of the Customs Act.
Detailed Circular is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-36-2020.pdf>)
- 23. Circular No. 37/2020-Customs August 19, 2020:** Extension of Deferred payment of Customs duty benefits to Authorized Public Undertakings.
Detailed circular is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-37-2020.pdf>)
- 24. Circular No. 38/2020-Customs August 21, 2020:** Guidelines regarding implementation of section 28DA of the Customs Act, 1962 and CAROTAR, 2020 in respect of Rules of Origin under Trade Agreements (FTA/PTA/CECA/CEPA) and verification of Certificates of Origin.
Detailed circular is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-38-2020.pdf>)
- 25. Circular No. 39/2020 - Customs September 04, 2020:** The facility for export of cargo in containers and closed bodied trucks from Inland Container Depot/Container Freight Stations (ICDs/CFSS) through Land Customs Stations (LCSs) to Nepal or Bangladesh has been extended to Fulbari, Changrabandha and Jaigaon. Detailed Circular is available at: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-39-2020.pdf>
- 26. Instruction No. 17/2020-Customs August 10, 2020:** A special drive for disposal of un-claimed/un-cleared/seized/confiscated goods due for disposal by August 01, 2020 has been initiated, effective from August 11, 2020 till September 15, 2020.
Detailed Instruction is available at: (<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-instructions/cs-instructions-2020/cs-ins-17-2020.pdf>)

www.manian-rao.com

Address:

Bangalore

#361, First Floor, 7th Cross, 1st Block,
Jayanagar, Bangalore – 560011
Phone: +91 80 26569500 / 9501

Chennai

4, Easwaran Koil Street
Old Pallavaram,
Chennai – 60017
Phone: +91 44 22641404

Madurai

110, First Floor
Old No 85, 4th Street
Harvey Nagar, Arasaradi
Madurai – 625016
Phone: +91 452 2343630

Key Contacts

Paresh Daga

Senior Partner
paresh@manian-rao.com

R Srikanth

Senior Partner
srikanth@manian-rao.com

Ravindra C

Partner
ravindra@manian-rao.com

Pallavi V Rao

Partner
pallavi@manian-rao.com

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