ASA & ASSOCIATES LLP
CHARTERED ACCOUNTANTS

A Monthly E-Newsletter
Vol 01 Issue 04
September 2020

The Bottom Line

WHAT'S INSIDE

KEY METRICS

Indices		
BSE SENSEX	38,628	2.72% ▲
NSE NIFTY50	11,388	2.84% ▲
NASDAQ Composite	11,775	9.59% ▲
NIKKEI 225	23,140	6.59% ▲

Currency		
USD/INR	73.25	2.22% ▲
EURO/INR	87.44	0.92% ▲
GBP/INR	97.93	0.10% ▲
JPY/INR	0.69	2.35% ▲

Note: The month-on-month movement as on August 31, 2020 is represented in percentages
Source: Yahoo Finance, Investing.com

Direct Tax

Notifications/Circulars

Faceless assessment, appeals and Taxpayers' Charter introduced

A platform for 'Transparent Taxation – Honoring the Honest', has been introduced by bringing in faceless assessment, appeal and taxpayers' charter. Faceless assessment and charter is effective immediately whereas faceless appeal shall be applicable from September 25, 2020. All assessment orders shall now be passed by the National e-Assessment Centre through the Faceless Assessment Scheme, 2019 except those assigned to Central Charges and International Tax Charges. Detailed guidelines have also been issued in this regard.

Order No. 187/3/2020/ITA-I and Notification No. 60/2020-CBDT dated August 13, 2020

CBDT issues MAP Guidance

CBDT has issued detailed information on MAP guidance for benefit of taxpayers, tax authorities and treaty partners. The Guidance covers:

- Introduction and Basic Information
- Access and Denial of Access to MAP
- Technical Issues
- Implementation of MAP outcomes.

Circular No. 500/09/2016-APA-I dated August 07, 2020

Judicial Rulings

Compensation for compulsory land acquisition taxable in year of grant of award

It was held that capital gains arising out of compensation received on compulsory land acquisition were chargeable to tax in the year in which compensation is awarded and not date of notification for acquisition of land.

Raj Pal Singh v. Commissioner of Income-Tax (Supreme Court)

Option of Valuation Rule is discretion of assessee

In pursuance of the provisions of S.56(2)(viib) read with Rule 11UA, the assessee has the choice to choose one of the prescribed method for valuation of the fair market value of the shares. If the assessee has chosen a method provided under the Rule, the AO has no power to change to another method.

Karmic Labs Pvt. Ltd. v. Income tax Officer, Mumbai ITAT (ITA No.3955/Mum/2018)

Fact of non-existent share applicant takes precedence over paper-trail

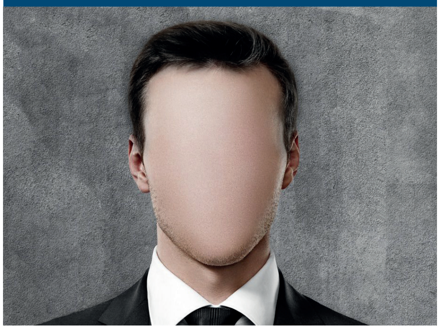
The assessee had issued shares at a high premium value to share-applicants. The genuineness of the transaction and the creditworthiness of these investors could not be verified by the AO. Also, the notices sent to the share-applicants returned unserved and entire amount of share application money was added to income as unexplained cash credits. It was upheld that it is incumbent upon the assessee to prove creditworthiness of applicants and genuineness of the transaction. Mere paperwork by the assessee does not relieve the assessee from the onus casted upon him under the provisions of the Income Tax Act.

KNS Realtors Pvt. Ltd [TS-428-ITAT-2020(DEL)]

Option of Valuation Rule is discretion of assessee

MAP Guidance issued by CBDT

Introduction of Faceless assessment, appeals and Taxpayers' Charter



Denial of TDS credit in 143(1) intimation, without assigning any reason is not sustainable in Law

The Court ruled that the intimation issued u/s 143(1) denying the TDS credit without assigning any reasons thereof, is not sustainable and suffers from legal irregularity. Further, the Court observed that such intimation is only a matter of information generated in pro-forma by the Centralized Processing Centre, Bangalore. Accordingly, the intimation was set-aside and remanded to AO for disposal by way of speaking order, after affording an opportunity of being heard to the assessee.

AWP Assistance (India) Pvt. Ltd [TS-403-ITAT-2020(DEL)]

Indirect Tax

Notifications/Circulars

Interest payable only on net cash GST liability

The amendment made in CGST Act vide Finance Act, 2019 providing for interest to paid only on net tax liability requiring cash payment after set-off of ITC has now been made effective prospectively from September 1, 2020. Considering that GST Council had recommended such amendment to be made retrospective from July 1, 2017, the authorities have issued a press release stating that no recoveries shall be made on gross tax liability for past periods.

Notification No. 63/2020-Central Tax dated August 25, 2020 & Press Release by CBIC dated August 26, 2020

Aadhaar to be authenticated for GST registration

CGST Rules have been amended to provide for Aadhaar authentication for obtaining GST registration. In absence of such authentication, physical verification of business premises shall be conducted prior to grant of registration.

Notification No. 62/2020-Central Tax dated August 20, 2020

Court Cases/Advance Rulings

ITC on lease rental of land

Land is being leased for further construction of an immovable property. GST paid on lease premium charges, lease rentals and maintenance charges cannot be claimed as input as per Section 17(5) of the CGST Act.

M/s Daicel Chiral Technologies (India) Private Limited (AAR Telangana)

Prospective amendment for interest payable only on net cash GST liability; no recoveries to be made for past periods also

As land is leased for construction of immovable property, no ITC permissible on lease premium charges / lease rent

Denying refund of ITC on input services in case of inverted duty structure is ultra-vires

Refund of input services in case of inverted duty structure

CGST Rules which deny the refund of unutilized ITC on input services as part of tax credit accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act. Department directed to allow refund of same to the appellant.

VKC Footsteps India Pvt Ltd v. Union of India (Gujarat High Court)

Assessment order before time limit provided in SCN

Where the assessment order was passed before expiry of time limit provided in SCN, without prior intimation to assessee, such order was held to be in violation of the principle of natural justice and quashed.

Shiv Kishore Construction Private Limited v. Union of India & others (Patna High Court)

Refund of tax paid on ocean freight

The petitioner to be granted refund of IGST already paid with regard to ocean freight, as imposition of such tax has been declared ultra-vires by the Gujarat High court in the case of Mohit Minerals v Union of India.

Bharat Oman Refineries Ltd. v. Union of India and others (Gujarat High Court)

Taxability of after-sale service during warranty period

Where after-sale repair and servicing of car during its warranty period is provided by the applicant on behalf of foreign manufacturer, to customers in India, and where reimbursement of cost of such service is met by the foreign manufacturer, the recipient of service in such a case shall be the foreign manufacturer and not the individual customers.

M/s Volvo - Eicher Commercial Vehicles Ltd. (AAAR Karnataka)

CORPORATE & ALLIED LAWS

Measures by RBI to ensure orderly market conditions

AGM extension application to be considered liberally

Defaults due to moratorium not to affect credit ratings

AGM extension application to be considered liberally

As a further relief, companies which are unable to hold their AGM for FY ended March 31, 2020 through VC's or OAVM's until September 30, 2020 can make application to concerned ROC for seeking extension for a period upto maximum of three months. Such application is required to be filed on or before September 29, 2020.

MCA General Circular No. 28/2020 dated August 17, 2020

Defaults due to moratorium not to affect credit ratings

To protect the interest of investors and to promote development of, and to regulate the securities market, SEBI has issued circular for all registered Credit Rating Agencies. The circular provides relaxation from recognition of default owing to moratorium period permitted by RBI and lockdown due to COVID-19. Such relaxation shall continue till December 31, 2020.

SEBI Circular No. 160/2020 dated August 31, 2020

Relaxations by RBI

In order to continue ensuring orderly market conditions and congenial financial conditions, RBI has announced measures viz.

- Special open market operations involving the simultaneous purchase and sale of Government securities for an amount of INR 200,000 million
- Providing option to reverse transactions wherein banks have availed funds under long-term repo operations
- Allowance to hold fresh acquisitions of SLR securities with revised limits

RBI Press Release No. 263/20-21 dated August 31, 2020

CFO WATCH

Conceptual Framework for Financial Reporting under Ind-AS notified by ICAI

New Business Responsibility Reporting framework proposed by MCA

ICAI notifies Conceptual Framework for Financial Reporting under Ind-AS

With an objective to remain converged with the global accounting framework, ICAI has developed the Conceptual Framework for Financial Reporting under Ind AS corresponding to IASB's Conceptual Framework. Amendments in various Ind ASs have also been recommended by ICAI due to revised Conceptual Framework, which will be notified in due course of time.

New reporting framework recommended for Business Responsibility Reporting

MCA's panel on Business Responsibility Reporting (BRR) proposed a new reporting framework for improved reflection of the intent and scope of reporting by companies on non-financial parameters with thrust on the value chain, labour welfare and women's participation in economic activity.

RBI prescribes reforms list for post-COVID-19 recovery

Keeping in view the downturn in economy due to pandemic situation, RBI has released list of several prescribed reforms to counter the lockdown-induced economic damage. Key proposed reforms include monetization of assets in certain sectors like steel, coal, power, and railways, setting-up of GST Council like authorities to drive structural reforms in land, labour and power, incentivizing production of solar panels, encouraging FDI in Railways etc.

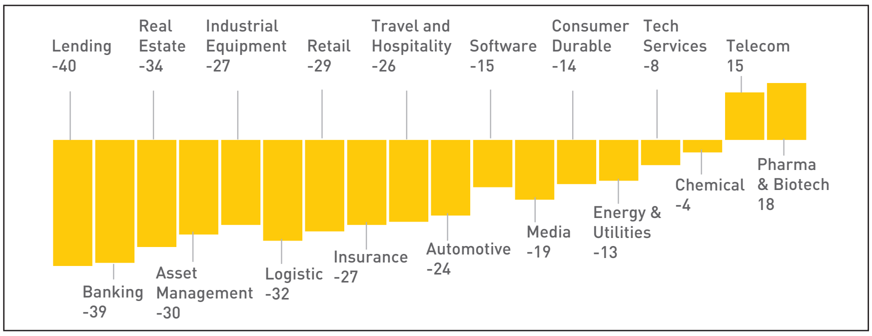
MERGERS & ACQUISITIONS

M&A predicted to rise post COVID-19 crash

COVID-19 impact on M&A

COVID-19 crisis has brought the world economy to its knees. Similarly, in India, current financial year began with significant ruptured normalcy with engine of economic growth ebbing towards grinding halt and sharp deterioration in market capitalization and M&A trends.

Change in Market capitalization, December 31, 2019 – May 31, 2020, %



Source: McKinsey analysis of CapitalIQ

During Q1 FY21, Indian firms saw a sharp fall of 55 percent in M&A (value terms) compared to same period last year, only exception being technology venture Jio Platform's USD 25 Bn deals which kept the league table moving. However, amidst the crisis, new M&A opportunities are approaching India as small businesses are experiencing the cash crisis. Also, the global business lockdown has created opportunities for Indian firms waiting with cash, eyeing quality international assets.

Post COVID-19, M&A recovery can come from:

- **Divestiture and carve-outs**

  Before the pandemic, debt-burdened subsidiaries were managing to survive mainly with marginal levels of allocated capitals of parent. In post COVID-19 scenario, these subsidiaries will have to go through a tough time as capital becomes scarce. With increasing cash pressure on conglomerates, the need for carve-outs may probably increase, especially in non-core portfolios.

- **Acquisition opportunities for large players**

  In FMCG, pharma and retail sectors, the crisis has put liquidity pressure on mid-size companies. In these sectors, success requires strong distribution and footprint. Large corporates with deep pockets may look towards brand that have strong hold in the market. Reliance's acquisition of Future group is a case in point.

- **Promising geopolitical conditions**

  In the wake of COVID-19, some countries are reconsidering reliance on manufacturing and supply base located in a single country. Global supply shock has compelled the countries diversify production and supply bases. India is contending to be a worthy alternative for businesses intending to move their investments.

IN THE NEWS

Webinars

Decoding India Digital Tax
- August 12, 2020
Speakers: Sunil Arora, Co-Practice Head, Mumbai & Partner, Taxation and Rajiv Arya, National Head, Accounting and Business Support along with Jon Davies, Partner and Marcus Sharei, Director, Armanino LLP, USA

Transfer Pricing in the COVID-19 Scenario - August 13, 2020
Speakers: K Venkatraman, National Head Taxation, Karthik SS, Associate Director, Taxation and Mohamed Rizwan, Deputy Manager, Taxation in collaboration with World Trade Center Chennai

CFO Responsibilities - Direct & Indirect Taxes Relevant to Start-Ups - August 17, 2020
Speakers: Sundar Rajan, Partner, Accounting and Business Support along with G Viswanathan, Director and PP Santhosh Kumar, Senior Manager, Accounting and Business Support in collaboration with the Crescent Innovation and Incubation Council (CIIC)

Deal Making in India in times of COVID-19 : Commercial, Legal and Tax View - August 18, 2020
Speakers: Sunil Arora, Co-Practice Head, Mumbai & Partner, Taxation and Nitin Arora, Partner Transaction Advisory Services from ASA & Associates LLP along with Sumit Sharma, Partner, Corporate and Sanchit Jolly, Partner, Taxation from DMD Advocates

Expatriate Taxation in Times of COVID - August 19, 2020
Speakers: Satoshi Noguchi, SCS Global and Kazuharu Kono, Corporate Catalyst India in collaboration with the Yokahama India Centre, Japan

Articles by our Partners

Navigating the Storm -
August 2, 2020

Authors - Sandeep Khanna, Director Strategy, Sundeep Gupta, Partner, Accounting and Business Support and Indirect Tax, ASA & Associates LLP, Katharina Knollenborg, Certified Tax Advisor, NHS GmbH and Jethro Schiansky, Executive Director EUnited.

A joint report curated and published by ASA & Associates, India, NHS GmbH and EUnited, Germany covering the essence of business continuity for European manufacturing firms in the midst of a global pandemic.

Working Capital and Treasury Management in COVID Times
- August 4, 2020

Author - Sundeep Gupta, Partner, Accounting and Business Support and Indirect Tax Published in Motoring Trends Magazine, this article encapsulates practical suggestions for working capital and treasure management in these unsettled times.

Logistics Companies post COVID-19 World
- August 2020 edition

Author - Prateet Mittal, Partner, Assurance
Published by the Gurugram Branch of NIRC in their newsletter, the article covers the impact of COVID-19 on the logistics sector and possible suggestions for companies in this space to weather the downturn

Careers in small and medium sized accountancy practices (SMPs) –
August 11, 2020

ACCA's Professional Insight Report interviewed and quoted Sunil Arora our Co-Practice Head, Mumbai and Partner, Taxation. The report covered practical insights on talent attraction, development, and retention from over 60 small and medium sized accountancy practices globally.

Personal bankruptcy against Anil Ambani to force promoters to take IBC seriously – August 21, 2020

Business Today interviewed and quoted Himanshu Srivastava, Partner, Business Advisory Services at ASA & Associates on his stance on the NCLT paving the way for personal insolvency proceedings.

GLOSSARY

AAAR
Appellate Authority for Advance Ruling

AAR
Authority for Advance Ruling

AGM
Annual General Meeting

AO
Assessing Officer

AY
Assessment Year

CBDT
Central Board of Direct Taxes

CBIC
Central Board of Indirect Taxes & Customs

CGST Act
Central Goods and Services Tax Act, 2017

CGST Rules
Central Goods and Services Tax Rules, 2017

COVID-19
Coronavirus Disease 2019

DTAA
Double Tax Avoidance Agreement

FDI
Foreign Direct Investment

FMCG
Fast Moving Consumer Goods

FY
Financial Year

GST
Goods and Services Tax

HC
High Court

IASB
International Accounting Standards Board

ICAI
Institute of Chartered Accountants of India

IGST
Integrated Goods and Services Tax

Ind-AS
Indian Accounting Standards

ITAT
Income Tax Appellant Tribunal

ITC
PInput Tax Credit

M&A
Mergers and Acquisitions

MAP
Mutual Agreement Procedures

MCA
Ministry of Corporate Affairs

OAVM
Other Audio-Visual Means

Q
Quarter

RBI
Reserve Bank of India

ROC
Registrar of Companies

SCN
Show Cause Notice

SEBI
Securities and Exchange Board of India

SGST
State Goods and Services Tax

SLR
Statutory Liquidity Ratio

TDS
Tax deducted at Source

u/s
Under section

VC
Video Conference

We value your feedback. Please send us your comments and suggestions at editorial@asa.in

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Disclaimer: We have taken all steps to ensure that the information in this document has been obtained from reliable sources and is accurate. However, this document is not intended to give legal, tax, accounting or other professional guidance. We recommend appropriate advice be taken prior to initiating action on specific issues.

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