

Newsletter

Bhatia & Bhatia Chartered Accountants



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KEY DATES FOR NOVEMBER 2021:

- TDS/TCS payment by 7th November.
- GSTR1 (Monthly) by 11th November.
- PF/ESI (Monthly) deposit by 15th November.
- GSTR 3B by 20th November.
- Exercising option of safe harbour rules for international transactions/ specified domestic transactions by 30th November.

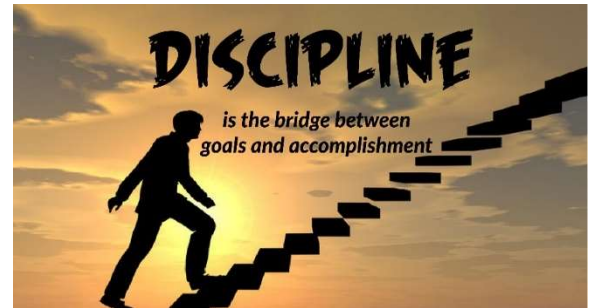
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"What would you do if you weren't afraid?"

Sheryl Sandberg, COO of Facebook



We at Bhatia and Bhatia Chartered Accountants follow principles of constant discipline thrive to train both ourselves and our team in the right direction of constant learning. With the changing business scenarios post Covid and the economy booming at an alarming rate, the Government issuing new policies and the notifications being issued by the IT/GST Department, the constant need to update both technically and professionally is the new norm. BnB ensures to share the same knowledge with the clients and colleagues and is building brand as not only being a professional expert but also a strategic partner in the client journey to business growth and expansion.

CA Khumesh Tokas
Partner



If you look at any successful professional - a salesperson, a marketer, a real estate agent, a trader - they all have the same qualities as the con man. The only difference is that one side uses their talents in the right direction and the con man is taking the easy way out.

Frank Abagnale

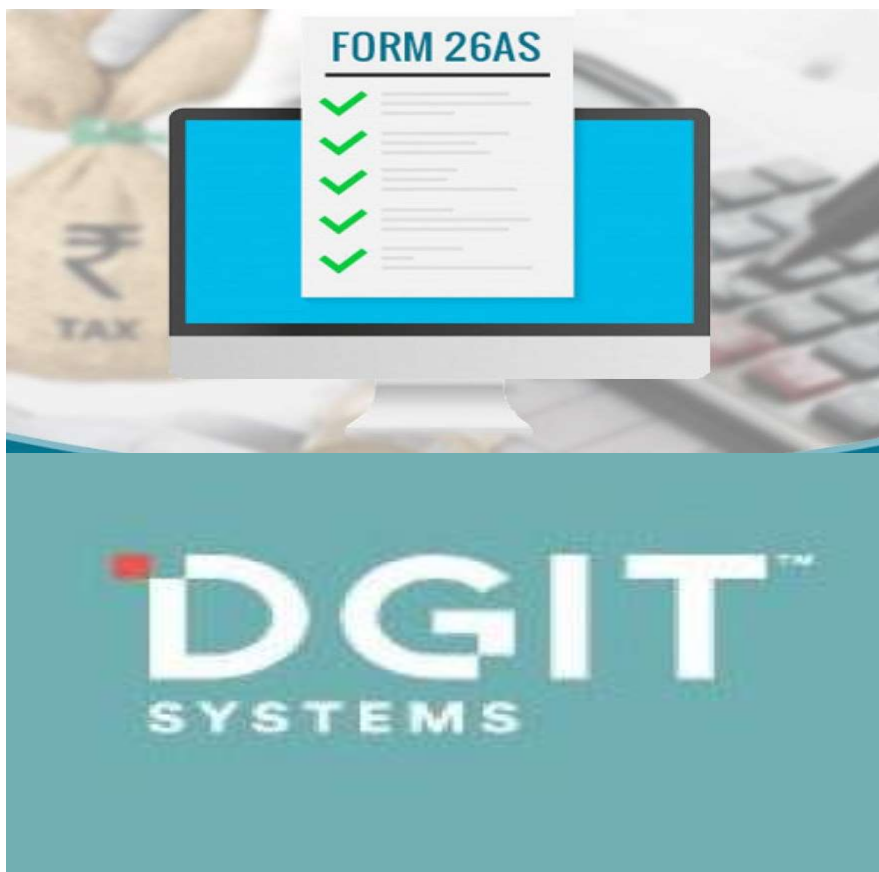
Central Board of Direct Taxes(CBDT) grants exemption to specified class of persons from requirement of furnishing a return of income under section 139(1) from assessment year 2021-2022 onwards vide Notification S.O. 4207(E) [No. 119/2021/F. No. 225/76/2021-ITA.II] dated 11.10.2021

In exercise of the powers conferred by section 139(1C) of the Income-tax Act, 1961 (the Act), the Central Government hereby exempts the class of persons i.e. a non-resident not being a company; a foreign company and non-resident being an eligible foreign investor, subject to the conditions specified, from the requirement of furnishing a return of income under section 139(1) of the said Act from assessment year 2021-2022 onwards.



Central Board of Direct Taxes (CBDT) authorises DGIT (Systems) to upload assessee’s financial information in Form 26AS vide Order F. No. 225/155/2020/ITA-II dated 26.10.2021

The CBDT has authorized the Director-General of Income-tax (Systems) to upload various financial information related to the assessee in Form 26AS, within three months from the end of the month in which the information is received by her/him. Such financial information includes foreign remittance reported in Form 15CC, info. of TDS statement, interest on income-tax refund, etc.



“You have to be burning with an idea, or a problem, or a wrong that you want to right. If you’re not passionate enough from the start, you’ll never stick it out.”

Steve Jobs, CEO and co-founder of Apple Inc.

“Dreams do not come true just because you dream them. It’s hard work that makes things happen. It’s hard work that creates change.” Shonda Rhimes, producer

Depreciation on assets kept 'ready to use' allowable during temporary suspension of business

Natural Biochemicals and Foods Ltd (now known as Kaleesuwari Refinery and Industry Pvt. Ltd.) vs ACIT in ITA No. 760 of 2018, Hyderabad Income Tax Appellate Tribunal.

During the course of assessment proceedings, the Assessing Officer observed that, there is no business activity from the past years and since there was no business activity carried out during the year, it was proposed to disallow the depreciation as claimed by the assessee company.

The Hon’ble Tribunal referring the judgments passed in the case of Capital Bus Service, CIT Vs. Refrigeration and Allied Industries Ltd. & CIT Vs. Panacea Biotech Ltd. granted the relief to the assessee observing that it is not necessary that the plant and machinery owned by the assessee should be actually put to use in the relevant accounting year to justify the claim of depreciation. The only condition is that the business should not have been closed down once for all and that the assessee should demonstrate that the hopes of the business being revived are alive and real. It is however not a matter that can turn entirely on the assessee's hopes alone. There should be evidence or material to show that the assessee took efforts to keep the business alive in the hope of reviving the same. Maintaining the office and establishment, complying with the statutory formalities, not disposing of the plant and machinery, incurring expenses on the repair of plant and machinery etc., are some of the indications of nurturing the hopes of reviving the business. The above are only illustrative instances and are by no means exhaustive and the question as to whether the assets were kept ready for use in the business is largely to be decided on the facts and circumstances of each case.

The term “put to use” applies to capital asset only because capital asset is held to facilitate the business activity and sometimes, it needs to be prepared after it is acquired for being used to facilitate the business activity.

CIT vs Ceebros Hotels (P.) Ltd. in ITA No. 496 of 2021 Madras High Court

The assessee borrowed a loan for the purpose of purchase of land and claimed interest paid on such loan as a deduction under section 36(1)(iii) of the Act. The Assessing Officer disallowed the claim on the ground that the land purchased was not put to use in the business of the assessee and thus, the interest paid on loan borrowed for acquisition of any asset needs to be capitalised and added back to the work-in-progress account till such time the asset was put to use in the business.

Allowing the appeal of the assessee and upholding the view of Tribunal, Hon’ble Madras High court observed that the term “put to use” applies to capital asset only because capital asset is held to facilitate the business activity and sometimes, it needs to be prepared after it is acquired for being used to facilitate the business activity and in the instant case, the assessee was able to establish that substantial activities had been done in the project, which would go to show that the property purchased has been put to use.



ASSET
DEPRECIATION



“Do what you love and success will follow. Passion is the fuel behind a successful career.”

Meg Whitman, CEO of Quibi

Property intended to be let out but lying vacant, eligible for vacancy allowance under section 23(1)(c) of the Act

Purushotamdas Goenka vs ACIT in ITA No. 4684 of 2019, Mumbai Income Tax Appellate Tribunal

The Ld. AO observing that the assessee has shown rental income from one property out of four properties held by him, it was held that the assessee should have shown income from the said vacant property(s) and should have been offered on the basis of deemed rental value which the property might reasonably be expected to be let out from year to year for the purpose of assessment of income under section 22 of the Act.

The Hon’ble Mumbai Income Tax Appellate Tribunal observed that, “After carefully perusing the provisions of section 22, section 23(1)(a) and section 23(1)(c) of the Act, we are of the considered view that the Annual Letting Value (ALV) of the property, which could not be let out during the year, would be nil in accordance with the provisions of section 23(1)(c) of the Act. The assessee is entitled for the vacancy of allowance in respect of the said properties and armed length price has to be assessed as rent received or receivable and not the amount for which the property is expected to be let out from year to year is to be considered for the purpose of assessing the ALV. In the present case since the properties have not been let out at all during the year, therefore the ALV has to be taken as nil. The case of the assessee is squarely covered by the decision of the co-ordinate Bench of the Mumbai Income Tax Appellate Tribunal in the case of Metaoxide Pvt. Ltd. vs. ITO in ITA No. 5773 of 2016 A.Y. 2010-11”



**INCOME FROM
HOUSE PROPERTY**



**आयकर अपीलीय अधिकरण
INCOME TAX APPELLATE TRIBUNAL**

International community strikes a ground-breaking tax deal for the digital age

Major reform of the international tax system finalised recently in October 2021 at the OECD will ensure that big Multinational Enterprises (MNEs) will be subject to a minimum 15% tax rate from 2023. Following years of intensive negotiations to bring the international tax system into the 21st century, 136 jurisdictions (out of the 140 members of the OECD/G20 Inclusive Framework on BEPS) joined the Statement on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy. It updates and finalises a July political agreement by members of the Inclusive Framework to fundamentally reform international tax rules. The landmark deal, agreed by 136 countries and jurisdictions representing more than 90% of global GDP, will also reallocate its profits, ensuring that these MNEs pay a fair share of tax wherever they operate and generate profits.

“Don't worry about failure. You only have to be right once.”

**Drew Houston, co-founder
and CEO of Dropbox**



Margins accepted in MAP for transactions with UK-entities applied to Non-UK entities

Bangalore ITAT in the case of Tesco Bengaluru Pvt. Ltd. (IT(TP)A No.197/Bang/2014 and IT(TP)A No.262/Bang/2014)

In this case, the taxpayer had opted for MAP proceedings pursuant to Article 27 of Indo-UK DTAA with respect to transfer pricing adjustment from revenue earned by the taxpayer from its AEs located in UK. The resolution of the competent authority was accepted by the assessee. The Tribunal noted that no distinction has ever been made between taxpayer's transactions entered with AEs situated in UK and other jurisdictions. The Tribunal finally held that that the margin of TP adjustment settled under the UK MAP should be adopted across the board for taxpayer's international transaction with AEs situated in other jurisdiction (since the international transaction with taxpayer's AEs in UK comprises almost 83% of the total revenue). In this context, reliance is placed on the orders of the Tribunal in the case of CGI Information Systems & Management Consultants (P.) Ltd. v. DCIT reported in (2017) 81 taxmann.com 169 (Bangalore Tribunal) and J.P.Morgan Services (P.) Ltd. v. DCIT reported in (2016) 70 taxmann.com 228 (Mumbai Tribunal).

Upholds no Business connection or PE for ESPM Mauritius in India

Delhi ITAT in the case of ESPN Star Sports Mauritius SNC et Compagnie (ITA No. 1219/DEL/2017)

The taxpayer is a Mauritius-based partnership firm and is engaged in the business of selling advertisement time and programme sponsorship from Mauritius in connection with the programming via non-standard television on ESPN, Star Sports and Start Cricket programming services. The taxpayer had entered into agreement with ESPN Software India (P) Ltd. (ESPN India), which was engaged in the business of acquiring the airtime from taxpayer and allotting it to various Indian advertisers and advertising agencies. The sale of airtime by the taxpayer to ESPN India is outside India. The Tribunal held that the question of attribution of profits becomes defunct in the absence of PE of foreign company in India by relying upon coordinate bench ruling in taxpayers's own case for the earlier years which in turn had relied on Hon'ble Supreme Court ruling in Honda Motors Co Ltd (Civil Appeal Nos.2833 to 2840 of 2018), E-Funds IT Solutions Inc. (Civil Appeal Nos. 6082 to 6084, 6087, 6089 to 6095, 6097, 6099 of 2015, 2962 of 2016, 16958 of 2017), Formula One World Championship Limited (Civil Appeal Nos. 3850 and 3851 of 2017) and Delhi High Court ruling in BBC Worldwide (W.P.(C) 8221/2010).



**ESPN STAR SPORTS NOT TAXABLE
IN THE ABSENCE OF BUSINESS
CONNECTION OR PE IN INDIA AS
PER INDO-MAURITIUS DTAA: ITAT**

NOTIFICATION**NOTIFICATION****1. Notification No. 6/2021- Central Tax dated 30th September 2021**

Government has vide Notification No.06/2021 dated 30th September 2021 inserted new entry for Services by way of job work in relation to manufacture of alcoholic liquor for human consumption which attracts 18% GST. This notification is applicable from 1st October, 2021.

Further clarificatory changes has been made in Heading 9996-Recreational, cultural and sporting services which clarifies that admission to amusement parks having rides, go-carting etc. attracts GST rate of 18%. The GST rate of 28% applies only to admission to such facilities that have casinos, race clubs and sporting events like IPL.

2. Notification No. 07/2021- Central Tax (Rate) dated 30th September 2021

Government has vide Notification No. 07/2021 dated 30th September 2021:-

- a) Extends exemption up to September, 2022 for Services by way of transportation of goods by an aircraft/vessel from customs station of clearance in India to a place outside India.
- b) Introduced exemption from 1st October, 2021 Services by way of granting National Permit to a goods carriage to operate through-out India/contiguous states.

3. Notification No. 8/2021- Central Tax dated 30th September 2021

Government has vide Notification No. 8/2021 dated 30th September 2021 amended CGST Rate on following goods* applicable from 1st October, 2021:-

- ❖ Renewable Energy Devices
 - Rate enhanced from 5% to 12%
- ❖ GST rates enhanced from 12% to 18% on following items in Ch. 49
 - Plans and drawings, & carbon copies (Heading 4906)
 - Transfers (decalcomanias) (Heading 4908)
 - Printed or illustrated postcards; printed cards (Heading 4909)
 - Calendars of any kind, printed, including calendar blocks (Heading 4910)
 - Other printed matter, including printed pictures and photographs (Heading 4911)
- ❖ Waste, parings or scrap, of plastics (3915)
 - Rate increased from 5% (Sch I-187A) to 18% (Sch III-101A)

*The above given list is Illustrative and for more details please refer the above notification.



4. Notification No. 10/2021- Central Tax (Rate) dated 30th September 2021

Supply of following essential oils other than those of citrus fruit namely:-

- a) Of peppermint
- b) Of other mints: Spearmint oil, Water mint-oil, Horsement oil and Bergament oil.

Is brought under reverse charge mechanism (RCM), wherever, the recipient is registered, and the Supplier is unregistered.

5. Notification No. 35/2021- Central Tax dated 24th September 2021

With effect from 1st October 2021, the frequency of filing the ITC-04 form which is applicable to registered manufacturer/a principal in case of Job work has been revised vide Notification No. 35/2021 dated 24th September 2021, as follows:-

- c) Those with AATO more than Rs.5crores- Half yearly from April-September due on 25th October and October-March due on 25th April.
- d) Those with AATO up to Rs.5crores-Yearly from FY2021-22 due on 25th April.

Earlier ITC-04 was a quarterly form until September2021.

- 6. GSTN has issued an Advisory dated 17/10/2021 regarding the availability of input credit for the financial year 2020-21. It was advised that all taxpayers ensure to take input credit for the financial year 2020-21 before the due date of filing of GSTR-3B for the month of September 2021 as per provisions of law, otherwise Input credit will not be allowed.
- 7. The Government of NCT of Delhi vide notification dated 14th October 2021 has authorized senior assistant and junior assistant of GST Department to undertake physical verification of the place of business of a person before grant of GST registration. This is a very important change in the case of new GST registration. Now all the persons who apply for new registration may have to face GST Department physical verification.
- 8. Due date of filing GST Annual Return GSTR-9 and GSTR reconciliation in Form 9C for the financial year 2020-21 for the taxpayers having turnover exceeding Rs.5crores is 31st December 2021. Thus all the tax payers having turnover exceeding Rs.5crores should ensure to file their GST Annual Return along with reconciliation before the due date.



"I got lucky because I never gave up the search. Are you quitting too soon? Or are you willing to pursue luck with a vengeance too?"
Jill Konrath, sales strategist

Government approves 31 proposals for PLI Scheme of telecom products

The Department of Telecom approved 31 proposals (comprising 16 MSMEs & 15 Non-MSMEs) entailing an investment of Rs 3,345 crore over the next four and a half years. The companies selected for the PLI scheme include Nokia India, HFCL, Dixon Technologies, Flextronics, Foxconn, Coral Telecom, VVDN Technologies, Akashastha Technologies, and GS India

Government notifies guidelines for PLI scheme for specialty steel

The five categories of specialty steel which have been included in the PLI scheme are coated/plated steel products, high strength/wear resistant steel, specialty rails, alloy steel products, steel wires and electrical steel. A company looking to avail the benefits of the scheme should be registered in India under the Companies Act. Joint Venture companies may also apply for incentives under the scheme.

IRB raises 5000 crores from foreign investors

In one of the largest funding rounds in the road infra sector of the country, IRB infrastructure developers is raising Rs. 5,347 crore from two global investors. Spanish infrastructure major Ferrovial is investing Rs. 3,180 crores in IRB Infra to buy 24.9% stake in the company. Additionally, Singapore GIC is investing Rs. 2167 crore to buy 16.9% stake.



Mauritius' exit from FATF grey list may boost India's FDI inflow

The Financial Action Task Force (FATF), the global money laundering and terrorist financing watchdog, has removed Mauritius from its 'grey list' of countries which may indirectly lead to higher investment to India from the Island nation. The FATF in its recent report has said that Mauritius has strengthened the effectiveness of its anti-money laundering and terror financing process, and has addressed related technical deficiencies to meet the commitments in its action plan regarding the strategic deficiencies that the FATF identified in February 2020. After inclusion in the list, FDI inflow from Mauritius fell from Rs 57,785 crore in 2019-20 to Rs 41,661 crore in 2020-21. Considering the removal of Mauritius from the grey list, it is expected that the FDI into India from Mauritius is likely to increase in the future.

SEBI issues revised formats for limited review/ audit report for issuers of non-convertible Securities

SEBI, in September 2021 had notified mandating entities with listed non-convertible securities ('NCS') to disclose financial results on quarterly basis (earlier half yearly basis). Now, vide circular dated October 14,2021, SEBI has issued revised format for limited review audit report for issuers of CS to be adopted by all entities with listed NCS other than insurance companies. The circular provides separate format for limited review report, quarterly standalone financial result and audited annual consolidated financial result for Banks and NBFC's and other entities.

SEBI introduces online system to obtain SCORES credentials of Companies intending to list their securities on exchanges

The SEBI has introduced an online mechanism for obtaining SCORES (Sebi Complaints Redress System) credentials for all companies intending to list their securities on stock exchanges. This has been done as part of SEBI's green initiative and to streamline the redressal of investor grievances against companies before listing. SCORES is a platform designed to help investors lodge their complaints pertaining to the securities market online with Sebi against listed companies and Sebi-registered intermediaries. All complaints received are dealt through SCORES.

*"The way to get started is to quit talking and begin doing."
Walt Disney, co-founder of The Walt Disney Company*



Tata Motors to invest Rs 15,000 crore in electric vehicles

Tata Motors will invest as much as \$2 billion (Rs. 15,000 crores) over next four years to launch 10 new electric vehicles. The move comes within days of PE firm TPG rise climate announcing plans to pump in \$1 billion into Tata Motor's passenger electric vehicles division at a valuation of \$9.1 billion.

India and Denmark sign MoUs to boost 'green strategic partnership'

India and Denmark agreed on measures to take forward their unique "green strategic partnership" and signed four agreements aimed at boosting cooperation in green technologies and management of natural resources such as groundwater.

Australian and Indian business leaders partner for investment opportunities

With an aim to boost industrial and manufacturing activity and to drive economic growth, India has partnered with Australia wherein Leaders from India and Australia came together under the Australia-India Business Exchange 2021 Business Leaders Forum for investment opportunities in areas such as agri food, mining, infrastructure, healthcare and education.

AIBX
Australia India
Business Exchange

"Train people well enough so they can leave, treat them well enough so they don't want to."

Richard Branson, founder of Virgin Group

India Russia Signed MoU to Tackle Coal Shortage

A MoU was signed between India and Russia focusing on coking. The deal signing is part of India's National Steel Policy 2017, under which it aims to reach 300 million tone steel production by 2030. It envisages the implementation of commercial activities and joint projects in coking coal. MoU is significant as it was signed when India's non-power industries like cement, aluminum and secondary steel producers were facing severe thermal coal shortages.

J&K signs MOU with Dubai for infrastructure development

The Jammu and Kashmir administration signed a MoU with the Dubai government for development of real estate, industrial parks, and more. The MoU with the government of Dubai covers real estate development, industrial parks, IT towers, multipurpose towers, logistics, medical college, super specialty hospital and more.

Tamil Nadu (TN) signs MoU for multi-modal logistics park

The Tamil Nadu government on Tuesday signed a memorandum of understanding (MoU) for developing a multi-modal logistics park (MMLP) at an investment of Rs 1,200 crore in Mappedu village in neighbouring Tiruvallur district. The project, which will come up on 158 acres, is the first such one to be established in the State and it will facilitate employment opportunities to about 10,000 youths.

Zoho plans to venture into R&D in TN

Zoho, Chennai-headquartered global technology company, plans to form a consortium comprising of local technology companies based in the Kongu region in Tamil Nadu. It will invest in R&D to build technical know-how and boost the region's economic strength. Through this initiative, Zoho will make a capital investment to set up R&D centres in the region, which will focus on the R&D of critical technologies for capital goods manufacturing, like machine tools, industrial automation software, and production process know-how.

TN based MSME bags contract from Boeing

Aerospace Engineers Private Limited, a TN based Micro Small and Medium Enterprise (MSME) has clinched a deal with largest aerospace firm Boeing to manufacture and supply critical aviation components and parts for the global aerospace company's products. Aerospace Engineers Private Limited will be setting up a new manufacturing facility, dedicated for Civil Aerospace production at Hosur and will also expand its existing Salem facility with an additional covered building space of 50,000 square feet over the next 24 months with an investment of Rs.150 crore.

Britannia Industries to invest Rs. 340 crores in new plant in Uttar Pradesh (UP)

Britannia Industries Ltd has stated it has commenced work on its greenfield manufacturing facility in Barabanki, Uttar Pradesh. The plant to be set up across 30 acre, at an investment of Rs340 crore, will have an annual production capacity of 1.25 lakh tonne. The company will make more of its flagship brands including Marie Gold, 5050, Good Day, Milk Bikis, Tiger Glucose and Rusk. This is Britannia's first greenfield manufacturing facility in Uttar Pradesh.



Maharashtra govt bags Rs 2,800 crore investment for EV manufacturing

The Government of Maharashtra signed a MoU for investment of Rs. 2,800 crores with Causis E-Mobility Pvt Ltd, for the setting up of a zero-emission EV manufacturing facility in the state, making it the first big-ticket investment under the recently announced Maharashtra EV Policy 2021. The MoU signed with Causis E-Mobility, a JV of UK-based Causis Group is set to transform Maharashtra into a leading state in terms of adoption of electric vehicles in the country.

MCA Extending last date of filling of Cost Audit Report to BOD

Based on the circular issued by MCA, if cost audit report for FY 2020-21 is submitted by the cost auditor to the BOD of the companies by 31st October, 2021 then the same would not be viewed as violation of rule 6(5) of Companies (Cost Records and Audit) Rules, 2014. Consequently, the Cost Audit Report for the financial year ended on 31/03/2021 shall be filed in e-form CRA-4 within 30 days from the date of receipt of the copy of the cost audit report by the company. However, in case a company has got extension of time for holding Annual General Meeting under section 96(1) of the Act then e-form CRA-4 may be filed within the timeline provided under the proviso to rule 6(6) of the companies (Cost Records and Audit) Rules, 2014.

MCA extends due date for filing LLP form -8

The Ministry of Corporate Affairs (MCA) notified relaxation in paying additional fees in case of delay in filing Statement of Account and Solvency by LLP upto 30th December, 2021. As part of the Government's constant efforts to promote ease of living and compliances for Micro, Medium and Small Enterprises doing business through the vehicle of LLP, it has been decided to allow LLPs to file Form 8 (the Statement of Account and Solvency) for the Financial Year 2020-2021 without paying additional fees upto 30th December, 2021.



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