KATALYST
ADVISORS LLP

Katalyst Kaleidoscope

April 2021: Tax and Regulatory Insights

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A. Income Tax highlights

1. Mumbai ITAT: Discount on ESOP is allowable as deduction u/s 37(1)[1]

During the year under consideration, Mahindra Lifespace Developers Ltd. ("Assessee") granted stock options to its employees and treated the difference between exercise price and market price on the date of grant as employee compensation cost and amortized the same over 5 years. The said amount of difference was disallowed by the Assessing Officer ("AO") mainly on the ground that the expenditure was only incurred on a contingent basis and the same was not incurred by the assessee.

The Mumbai Income Tax Appellate Tribunal ("ITAT") observed that the assessee, being a listed company was mandated to follow the accounting system of ESOP Scheme as per SEBI (Employee Stock Option Scheme and Employees Stock Purchase Scheme) Guidelines, 1999 and also the Guidance Note on accounting for share based payment issued by the ICAI. Further, the ITAT relies on the Bangalore ITAT ruling in the case of *Biocon Ltd. vs. Dy. CIT*, which was also subsequently followed by Mumbai ITAT in the case of *DCIT vs. Kotak Mahindra Bank Ltd.*, wherein it was held that discount on issue of ESOP was allowable as deduction u/s.37(1) of the Act as primary object was not to vest capital but to earn profits by securing consistent services of employees.

<u>Katalyst Comments:</u>

The ITAT has upheld substance over form, as the price difference amounts to employee cost and therefore, should be allowed as a deduction.

2. Mumbai ITAT: Allows Tata Trusts' voluntary surrender of Sec. 12A registration w.e.f. 2015; Revenue can't 'compel' continuation[2]

The assessee, Navajbai Ratan Tata Trust, voluntarily surrendered registration u/s 12A of the Income Tax Act, 1961 ("ITA") in February, 2015. Registration u/s 12A provides charitable trusts exemption from tax on income, subject to compliance with conditions provided therein. However, Principal Commissioner's order cancelling registration was issued in October, 2019; i.e., after the voluntary surrender.

[1] Mahindra Lifespace Developers Ltd [TS-112-ITAT-2021(Mum)]
[2] Navajbai Ratan Tata Trust & Others [TS-201-ITAT-2021(Mum)]

The Hon'ble ITAT questioned why the assesse would want to decline the exemption and pointed out that, pursuant to the amendment in Sec. 11 of the ITA w.e.f. April, 2015, exemption u/s 12A of the ITA would result in taxation of dividend from domestic companies which was otherwise exempt. Thus, the exemption would result in a higher tax liability for the assessee. Further, w.e.f. April 2016, Sec. 115TD of the ITA was introduced, which provided for taxation of accredited income of deregistered Trusts. Thus, date from which deregistration took place assumed importance.

Whether an assessee, not inclined to continue with registration under sec 12A of the ITA, can be virtually compelled to continue with the said registration was considered by the ITAT. The ITAT relied on several precedents concluding that CBDT Circulars are binding on the tax authorities. Consequently, it referred to the CBDT Circular[3] providing that Secs. 11, 12, and 13 of the ITA are special provisions allowing the benefit of tax exemption, which assessee has to opt for voluntarily. It further clarified that on request for cancellation by the assessee, such request cannot be denied. Benefit cannot be conferred upon an unwilling person, unless there is a specific provision stating that once an assessee avails a specific beneficial provision, he cannot opt out of the same on his own.

On effective date of cancellation, ITAT relied on Allahabad HC ruling in *Agra Development Authority*[4] where it was held that date of cancellation can relate back to first SCN and Delhi ITAT ruling in *Young Indian*[5] where it was held that whether cancellation of registration has to be prospective or retrospective depends on the facts of case. It further clarified that formal order cancelling the registration of the trust on account of any legitimate reason can be given with effect to a date prior to the date of order cancelling the registration. The ITAT held that, in the present case, cancellation of registration is w.e.f. March 20, 2015 or a date prior thereto. And the inordinate delay in cancellation of registration, attributable to the Revenue cannot put assessee in a disadvantageous position.

Katalyst Comments:

The above ruling reiterates the right of the assessee to exercise legitimate options for reduction of tax burden; more specifically, if a tax "exemption" is more onerous than being taxed, the assessee has the right to give up the "exemption".

[3] Circular No. 1/2015 dt. Jan 21, 2015
[4] ACIT Vs Agra Development Authority [(2018) 407 ITR 562 (All)
[5] Young Indian Vs CIT [(2019) 11 taxmann.com 235 (Del)

3. Ahmedabad ITAT: Sec. 206AA re: higher rate of TDS, cannot override beneficial treaty provision; Approves 10% TDS on remittance to Czech Republic[6]

The assessee had deducted tax on a foreign remittance @ 10% to a Czech Company in FY13-14. The rate of TDS was arrived at basis the Double Taxation Avoidance Agreement (DTAA) entered into by and between the Government of India and Czech Republic. Being a non-resident, the Czech Company did not furnish PAN to the assessee. The Assessing Officer claimed that TDS ought to have been deducted at 20% u/s 206AA, which provides for TDS in case PAN is not furnished.

The Hon'ble Tribunal held that though the ITA specifies to deduct TDS @ 20%, DTAA would override the provision of this particular domestic Act since the provision of DTAA are more beneficial to the assessee, as per Sec. 90(2). It further relied on Circular No. 333 dated 02.04.1982 issued by the CBDT which speaks that the "specific provisions made in Double Taxation Avoidance Agreements would prevail over general provisions contained in the Income Tax Act."

Katalyst Comments:

Rule 37BC (notified in June, 2016) to Sec.206AA provides that a non-resident receiving remittance in the nature of interest, royalty, fees for technical services, dividend and payments on transfer of any capital asset, shall not be subjected to a higher rate of TDS (i.e., 20%) if Tax Residency Certificate and other details are provided to the deductor. Thus, for other remittances or other cases not falling under Rule 37BC, the above ruling can be applied and beneficial rates under DTAA can be availed by the non-resident. One would have anyway considered the treaty rate as the logical TDS rate.

4. Mumbai ITAT: Sec. 56(2)(viib) re: premium on share issues, applicable on allotment of shares, not to advance received; Deletes Rs.313 Cr addition[7]

Sec.56(2)(viib) of the ITA provides that where a closely held company receives from a resident, consideration for issue of shares and such consideration is in excess of the fair market value of shares, the excess shall be taxed in the hands of the Company as income from other sources.

Assessee company revalued its investment in subsidiary company due to losses incurred by assessee's subsidiary (TMSL), and created a provision to the extent of Rs. 284 Cr and

[6] Jyoti Limited [TS-198-ITAT-2021(Ahd)]
[7] Impact RetailTech Fund Pvt. Ltd [TS-258-ITAT-2021(Mum)]

resultantly the net worth of the assessee became nil/negative. In order to improve the financial position of assessee and its subsidiary, the holding co. provided unsecured loans of Rs. 159 Cr for AY 2012-13, which was reclassified as advance towards share capital and a further advance of Rs. 154 Cr in AY 2013-14 (current year). Observing that the advance was in excess of the fair market value of shares as on the date of receipt in March 2013, Revenue held that the provisions of Sec.56(2)(viib) of the ITA was attracted, and accordingly, brought to tax the entire advance.

Revenue was of the opinion that, since the net worth of the assesse was nil/negative, infusion in the assessee which was eventually converted to share capital and securities premium was not warranted. The Hon'ble ITAT pointed out that a prudent businessman will invest in order to secure his investment in subsidiary or revive the subsidiary.

Further, the ITAT held that advance received was a liability and does not take the character of ownership until it is converted to share capital. Unless and until allotment of shares takes place, the assesse cannot become owner of funds. Consequently, the provision of Sec.56(2)(viib) were held to be not attracted.

Katalyst Comments:

i. *For 56(2)(viib) to be attracted, the consideration has to be received in the financial year in which it is sought to be taxed and has to be received towards issue of shares. The above ruling further provides that allotment of shares in the year of receipt is also a pre-condition for applying Sec. 56(2)(viib). The ITAT has rightly pointed that in the absence of allotment, if the advance/unsecured loan is taxed under this head, then any fund received by the sick or capital eroded subsidiary companies will be more than the fair market price of the shares and would automatically attract taxability u/s 56(2)(viib).*

ii. *This judicial precedent also highlights the lop-sided approach by revenue authorities and the litigation it can result into in genuine situations. Revenue authorities ignored the possibility that the losses could be short-term business situation and businesses cannot take funding decisions basis balance sheet dates.*

5. Ahmedabad ITAT: Sec. 56(2)(viib) re: premium on share issues, inapplicable to excess of net assets over consideration paid on amalgamation[8]

Assessee amalgamated with Kalavir Estate Pvt. Ltd. (KEPL) and took over all the assets and liabilities except land (taken at revalued price) at book value. Assessee issued 300 shares for each share held at KEPL amounting to Rs. 15 Cr. in exchange for net assets amounting to Rs. 54 Cr. and the excess of net assets over consideration was credited to capital reserve. Revenue taxed the excess u/s 56(2)(viib) being excess consideration for issue of its share.

ITAT observed that Sec. 56(2)(viib) creates a deeming fiction to fictionally convert a capital receipt into revenue, and that in the present case provisions of Sec. 56(2)(viib) would not be applicable since assessee has not charged premium and shares were issued at face value. It relied on SC ruling in *Mother India Refrigeration*[9] where it was held that deeming fictions are limited to the underlying purpose and cannot be extended beyond their legitimate field.

Further, the Sec. contemplates "receipt" of the consideration from a resident person. It thus contemplates a transaction between a resident person and the company issuing shares. Whereas, in cases of amalgamation there is a tripartite agreement between the amalgamated co., amalgamating co. and shareholders of amalgamating co. and such agreements are not contemplated in the deeming clause in question.

Consequently, Ahmedabad ITAT held that issue of shares at face value by amalgamated company to shareholders of amalgamating co. in pursuance to scheme of amalgamation does not fall u/s 56(2)(viib) of the ITA.

Katalyst Comments:

Sec. 56(2)(viib) was incorporated as an anti-avoidance measure for share issues by private companies at unreasonably high values, but, its unfettered reach has affected assesses involved in genuine transactions and has led to huge difficulties, in a classic case of outlier legislation.

[8] Ozone India Ltd [TS-260-ITAT-2021(Ahd)]
[9] CIT vs. Mother India Refrigeration (P) Ltd. (1985) 155 ITR 711

B. Corporate Law Highlights

1. MCA adds reporting requirements in companies audit report[10]

The MCA, vide notification amended the Companies (Audit and Auditors) Rules, 2014 and issued Companies (Audit and Auditors) Amendment Rules, 2021, providing following additional reporting requirement as "Other matters" w.e.f. April 01, 2021:

(i) Whether the company has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention[11].

(ii) Whether the management has represented that, other than as disclosed in the notes to accounts, no funds have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the company to or in any other person(s)/ entity(ies), including foreign entities ("Intermediaries"), with the understanding that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;

(iii) Whether the management has represented that, other than as disclosed in the notes to accounts, no funds have been received from any person(s) or entity(ies), including foreign entities ("Funding Parties"), with the understanding that the company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries. Further, that nothing has come to the notice of the auditors that has caused them to believe that the representations under sub-clause (ii) and (iii) contain any material mis-statement.

(iv) Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013.

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[10] MCA notification no. G.S.R. 206(E) dated 24 March 2021

[11] This requirement has been deferred to 1 April 2022 vide notification dated 1 April 2021 [Companies (Audit and Auditors) Second Amendment Rules, 2021]

Katalyst Comments:

The responsibility of and burden on auditors has further increased post the above amendment. Also, obtaining management representation on issues such as the above, especially since, funds are fungible, operate its own set of issues.

2. MCA makes amendment to the Schedule III to include multiple disclosures[12]

MCA made amendments to Schedule III to the Companies Act, 2013, which provides the format of financial statements of companies complying with applicable accounting standards, and has further prescribed a list of numerous additional disclosures required in the financial statements w.e.f. April 01, 2021:

(i) shareholding of promoters, as defined in Companies Act, 2013, (as per promoter name, no. of shares, percentage of total shares, percentage change in shareholding);

(ii) loans or advances granted to promoters, directors, KMPs and the related parties (further divided into amount of loan or advance in the nature of loan outstanding & percentage to the total loans and advances in the nature of loans);

(iii) trade payables & receivables ageing schedule respectively (requiring bifurcation on outstanding for periods from the due date of payment of less than 1 year, 1-2 years, 2-3 years & more than 3 years). Where no due date of payment is specified, disclosure to be made from the date of transaction;

(iv) reconciliation of the gross and net carrying amounts of each class of assets (property, plant or equipment and intangible assets) showing additions, disposals, acquisitions through business combination, amount of change due to revaluation etc. Further, the company is also required to disclose whether the plant, property, or equipment has been revalued by a registered valuer as defined under Rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017;

(v) disclosure of prescribed ratios (by companies following Division I and II of Schedule III) (such as current ratio, debt-equity ratio, inventory turnover ratio, net profit ratio, return on investment, return on capital employed etc.). Further, an explanation shall be provided for any change in the ratio by more than 25% as compared to the preceding year;

[12] MCA notification no. G.S.R. 207(E) dated 24 March 2021

(vi) where any proceedings have been initiated or pending against the company for holding any benami property, details of benami property held (bifurcated into details of beneficiaries, amount, year of acquisition of such property etc);

(vii) relationship with struck off companies (bifurcated into name, nature of transactions, balance outstanding etc.);

(viii) corporate social responsibility (divided into amount required to be spent, expenditure incurred, shortfall at the end of the year, nature of CSR activities etc.);

(ix) undisclosed income i.e., details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961, unless there is immunity for disclosure under any scheme;

(x) details of crypto currency/ virtual currency (bifurcated into profit or loss on transaction involving such currency, amount of currency held as at reporting date, deposits or advances from any person for the purpose of trading such currency);

(xi) several other disclosures, such as ageing schedule for Capital WIP, willful defaulter, registration of charges or satisfaction with ROC, compliance with number of layers of companies, compliance with approved scheme(s) of arrangements, utilization of borrowed funds and share premium, title deeds of Immovable property not held in name of the company etc.

Katalyst Comments:

The intent of the law seems to be to bring more transparency in reporting by corporates. Though certain disclosures may lead to repetition of information in various places, to avoid the same cross-referencing may be done. It is a significant addition to the compliance burden of corporates. Additionally, it may also have the effect of overwhelming the shareholders. Too much information all in all may not be the best way of furthering "ease of doing business'.

C. Insolvency & Bankruptcy Code, 2016

Pre-Packaged Insolvency Resolution Process introduced for MSMEs[13]

Chapter III-A has been introduced to the IBC Code to provide for an insolvency and bankruptcy process for MSMEs, known as a Pre-Packaged Insolvency Resolution Process ("PIRP"). The salient features of PIRP for MSMEs are as follows:

[13] The Insolvency & Bankruptcy Code (Amendment) Ordinance, 2021 dt. April 04,201

(i) The PIRP applies only to MSMEs which are corporates i.e. Company or LLP or body corporate with limited liability.

(ii) PIRP process commences only after (a) at least 66% of financial creditors have accorded approval for PIRP and have approved name of Resolution Professional (b) Corporate debtor has passed special resolution where 75% of its members approve the application (c) Corporate Debtor prepares a Base Resolution Plan (d) Name of Resolution Professional has been approved by Financial Creditors and Corporate Debtor.

This is a significant deviation from the existing Corporate Insolvency Resolution Process ("CIRP"), where an application can be filed without any of the above pre-requisites (except special resolution where application is field by the Corporate Debtor itself).

(iii) Minimum default for application for PIRP is INR 10 lakhs. Application for PIRP can be made by the Corporate Debtor only. The PIRP process is to be completed within 120 days from acceptance of application by the Adjudicating Authority.

(iv) During the PIRP period, management and control of the Corporate Debtor shall vest with the Board of Directors or partners, as the case may be, unlike CIRP, where the management vests with Resolution Professional. However, in case of PIRP, the Committee of Creditors may, by a vote of 66%, vest management of the affairs of the Corporate Debtor with the Resolution Professional.

(v) PIRP shall be given priority by the Adjudicating Authority if it is filed before an application for CIRP in respect of the same corporate debtor or if application for PIRP is made within 14 days of application for CIRP.

(vi) The IBBI (Pre-packaged Insolvency Resolution Process) Regulations 2021 provide for a scoring and improvement mechanism for the Resolution Plan, popularly known as the 'Swiss Challenge', under which, the committee of creditors shall approve a basis for evaluation, i.e., a formula for scoring resolution plans. The Resolution Professional shall also invite resolution plans from third parties and these shall be evaluated basis the parameters and given scores for comparison and selection.

Katalyst Comments:

The PIRP process on paper appears to be more efficient than CIRP, especially with the creditors and the applicant agreeing on a base resolution plan at the time of application and the management vesting with the Board during the process. The Swiss Challenge is also a welcome change, as quantification of important parameters will provide clarity in selecting and approving resolution plans bringing speed and accuracy to the process.

D. Other Highlights

1. Hon. President promulgates Ordinance to abolish IPAB, rationalise Tribunals

The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, seeking to replace appellate authorities with High Courts under nine different laws of India, received the asset of Hon'ble President on April 04, 2021 with immediate effect.

The laws captured in the ordinance are as follows:

(i) The Cinematograph Act, 1952;
(ii) The Copyright Act, 1957;
(iii) The Customs Act, 1962;
(iv) The Patents Act, 1970;
(v) The Airport Authority of India Act, 1994;
(vi) The Trade Marks Act, 1999;
(vii) The Geographical Indications of Goods (Registration and Protection) Act, 1999;
(viii) The Protection of Plant Varieties and Farmers' Rights Act, 2001;
(ix) The Control of National Highways (Land and Traffic) Act, 2002.

The rationale behind the said Ordinance, as provided in the Tribunals Reforms (Rationalisation and Conditions of Service) Bill, 2021, proposed in the Lok Sabha on February 13, 2021, is as follows:

(i) analysis of data of the last three years showed that tribunals in several sectors have not necessarily led to faster justice delivery and are also at a considerable expense to the exchequer;
(ii) hon'ble Supreme Court has deprecated the practice of tribunalisation of justice and filing of appeals directly from tribunals to the Supreme Court in many of its judgements;
(iii) tribunals proposed to be abolished are of the kind which handle cases in which public at large is not a litigant or those which neither take away any significant workload from High Courts which otherwise would have adjudicated such cases nor provide speedy disposal;

(iv) cases do not achieve finality at the level of tribunals and are litigated further till High Courts and Supreme Court, especially those with significant implications, therefore, these tribunals only add to another additional layer of litigation;
(v) having separate tribunal requires administrative action in terms of filling up of posts and such other matters, and any delay in such action further delays disposal of cases;
(vi) reducing the number of tribunals shall not only be beneficial for the public at large, reduce the burden on public exchequer, but also address the issue of shortage of supporting staff of tribunals and infrastructure.

Katalyst Comments:

This is a significant development and may turn out to be administratively efficient for the Indian Judicial system, as well as for the public at large. However, it will increase the caseload of High Courts, already overburdened with a huge backlog of cases (572 as on 15th April, 2021).

2. Delhi High Court order upholds SIAC order, restrains acquisition of retail assets of Future Group by Reliance Industries

Pursuant to Amazon Future feud over sale of retail business from Future Retail Limited ("FRL") to Reliance Industries, the important questions that arose for consideration before Delhi HC were:

i. the legal status of an Emergency Arbitrator ("EA") i.e., whether the EA is an arbitrator and whether the interim order of the EA is an order u/s 17 (1) and is enforceable u/s 17(2) of the Arbitration Act?
ii. Whether the EA misapplied the Group of Companies doctrine which applies only to proceedings u/s 8 of the Arbitration Act as alleged by FRL?
iii. Whether the interim order of EA is 'nullity' as alleged by FRL?

Delhi HC observed the following:

i. **Legal Status of EA:** The advantage of the EA mechanism is that a litigant is able to get the justice within 15 days, which is not possible in Courts. However, if the order of the EA is not enforced, it would make the entire mechanism of Emergency Arbitration redundant. By incorporating the rules of Singapore International Arbitration Centre ("SIAC") into the arbitration agreement, the parties have agreed to the provisions relating to EA. EA is an Arbitrator for all intents and purposes, which is clear from the conjoint reading of Sections 2(1)(d), 2(6), 2(8), 19(2) of the Arbitration and Conciliation Act and the Rules of SIAC which are part of the arbitration agreement by virtue of Section 2(8). Further, U/s 17(1) of the Act, the Arbitral Tribunal has the same powers to make interim order, as the Court has, and Sec. 17(2) makes such interim order enforceable in the same manner as if it was an order of the Court.

ii. **Doctrine of Group of Companies:** Group of Companies doctrine binds the non-signatory entity where the multiple agreements reflect a clear intention of the parties to bind both the signatory and non-signatory entities within the same Group. EA's findings on applicability of Group of Companies doctrine inter alia include (i) signatory and non-signatory company (FRL) belong to the same Biyanis Group (ii) the conduct of the parties reflects clear intention to bind the signatory as well as non-signatory company (FRL) of Biyanis Group (iii) simultaneous discussions and negotiations of the agreements, and common negotiating and legal team represented the signatory and non-signatory company (FRL). The EA has applied the well settled law laid down by the Supreme Court in similar rulings to the present case.

Against FRL's plea that the Group of Companies doctrine applies only to proceedings u/s 8 of the Act, Hon'ble High Court stated that the same is contrary to the law laid down by Supreme Court and remarked that the law laid down by the Supreme Court is binding on all the parties and setting up a plea contrary to the well settled law declared by the Supreme Court is a very serious matter.

iii. **Whether the interim order is a nullity:** Future's plea that the interim order be declared a Nullity without pleading on the law of Nullity was vague and unsubstantiated.

Further, with respect to FRL's submission that combining/treating all the agreements as Single Integrated Transaction would result in Amazon acquiring control over FRL which would result in violation of FEMA, the Court took note of EA's findings and agreed with the EA that the protective rights do not amount to control of the petitioner over FRL and do not violate any law.

Katalyst Comments:

The Delhi High Court's order and observation that the emergency arbitrator's decision to block the deal was not a nullity and that it was enforceable in India gives a leg up to Amazon's stand on the issue. It gives more credence to Amazon's stand in the SIAC as the final arbitration on the issue is likely to start soon.

However, in the recent past, enforceability of international arbitration awards in India has been challenged a couple of times, which may impact the reliability for foreign investors on the Indian judicial system.

E. Goods and Service Tax Highlights

1. Supply of railway coaches to Bengaluru Metro Rail Corp. by various cost centers is 'composite supply'

Bharat Earth Movers Limited ('BEML') has entered into a 'supply contract' with Bengaluru Metro Rail Corp. Ltd. (BMRCL) to supply 150 metro coaches wherein various 'Cost Centres' of BEML are supplying various independent goods and services which are integral part of contract. BEML intends to know whether supply of service is taxable at 18% and supply of goods are taxable at 5-12% or not. In this regard, the Karnataka AAR[14] has held that supply of goods and service to MBRCL is not multiple/independent supply but it is within the same contract and such supplies are naturally bundled and hence, supply of goods and services both are taxable as 'composite supply' at 18%.

2. Sub-contractor undertaking work of another sub-contractor is liable to GST @ 18% in absence of any direct contract with Government entity

Karnataka AAR[15] has held that in absence of direct contract with a Government entity, second sub-contractor providing composite supply of services for completing incomplete work order as part of complete work order granted to main contractor by Government entity, is not entitled to charge concessional rate of 12%. Further, there is no privity of contract between second sub-contractor and the main-contractor who entered into an agreement with the Government entity. Thus, the AAR has held that the benefit of concessional rate of 12% will be available to the first sub-contractor if the main contractor enters into agreement with the Government entity as per notification no. 11/2017-CT(Rate) dated June 28, 2017.

3. Updates on E-invoicing

- W.e.f. April 1, 2021, e-invoicing[16] is made applicable to taxpayers having aggregate turnover above INR 50 crores. Further, turnover above 50 crores should be seen from F.Y.2017-18 to F.Y.2020-21.
- Requirement of printing of QR code[17] for taxpayers having turnover more than 500 crores for supplies made to unregistered (B2C) customers has been deferred till July 1, 2021

[14] In the matter of Bharat Earth Movers Limited [TS-144-AAR(KAR)-2021-GST]
[15] In the matter of Hadi Power Systems [TS-143-AAR(KAR)-2021-GST]
[16] Notification no. 5/2021-CT dated March 8, 2021
[17] Notification no. 6/2021-CT dated March 30, 2021

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