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NEWSLETTER FEB 20

"Strive not to be success but rather to be of value"

WHAT'S INSIDE

DIRECT TAX

INCOME TAX

Ambuja Cements Ltd. v. DCIT [2019] 111 taxmann.com 10 (Mumbai - Trib.)

Assessee being an amalgamated company is entitled to claim set off of carried forward MAT credit of its amalgamating company

Facts of the case:

- The assessee-company was engaged in the manufacture and sale of cement. For the A.Y. 2007-08 the assessee company filed its return of income of approx. Rs. 1,311/- crores under the normal provisions of the Act & book profit of approx. Rs. 1,853/- crores. The assessee claimed set off of carried forward MAT credit of approx. Rs. 20/- crores pertaining to the AY 2006-07.

- However, while computing tax on book profit u/s. 115JB, the Assessing Officer only allowed MAT credit u/s. 115JAA for an amount of Rs. 6.99/- crores.

- The assessee challenged the reduction of MAT credit in an appeal filed before the CIT(A). The CIT(A) directed the AO to allow MAT credit as per law, wherein the AO passed order giving effect where he allowed MAT credit of approx. Rs. 20/- crores.

- The CIT, while examining the assessment records of assessee under section 263, found that MAT credit of Rs.6.99 pertained to company which was amalgamated with the assessee. The Commissioner was of the view that MAT credit of the amalgamating company was not admissible for deduction at the hands of the assessee under section 115JAA.

- Accordingly, she directed the Assessing Officer not to grant the MAT credit of Rs. 6.99 crores. Aggrieved by the said ruling, assessee preferred the appeal before Mumbai Tribunal.

- The Tribunal held as under –

Held

- During the year under consideration, the assessee claimed set off of carried forward MAT credit pertaining to the assessment year 2006-07. The said MAD also included MAT credit of Rs. 6.99 crore of amalgamating company AECL.

- The CIT was of the view that carry forward of MAT credit of amalgamating company cannot be allowed in case of amalgamated company, but there is no such restriction within the provisions of section 115JAA.

- While completing the assessment in case of the amalgamating company ACEL in assessment year 2006-07, the Assessing Officer had concluded that carried forward MAT credit of ACEL would be available in the hands of the present assessee. Thus, carried forward MAT credit of the amalgamating company can be claimed by the amalgamated company.

- Taking over-all view of the matter, Tribunal was of the opinion that decision of the Assessing Officer in allowing set off of carried forward MAT credit of Rs. 6.99 crores at the hands of the assessee cannot be considered to be erroneous.

- Accordingly, the impugned order passed by the Commissioner was quashed.

DIRECT TAX

INCOME TAX

Ashok G. Chauhan v. ACIT [2019] 105 taxmann.com 204 (Mumbai - Trib.)

If assessee owns more than one residential property, deduction under section 54F could not be denied to him if he is not the absolute owner of the properties.

Facts of the case:

- The assessee was an individual. For AY 2010-11, assessee filed his return claiming deduction under section 54F in respect of capital gain arising from transfer of capital assets.
- In the course of assessment under section 143(3) the Assessing Officer noted that at time of transfer of capital asset, assessee was owner of two residential houses. Out of the two houses, one was jointly purchased by him with his wife.
- The Assessing Officer rejected assessee's claim for deduction on the ground that he was owner of two flats on date of transfer of capital assets.
- Aggrieved by the same assessee preferred the appeal before the CIT(A). However CIT(A) rejected the contentions of the assessee and upheld the decision of the Assessing Officer. Aggrieved by the said ruling of the CIT(A), assessee preferred the appeal before Mumbai Tribunal.
- The Tribunal held as under –

Held

- The assessee was undisputedly co-owner of the property in Goa along with his wife and had transferred his share to his daughter as a gift on 15.04.2004. Therefore the assessee cannot be called the complete owner of the property.
- According to the legislature, “a residential house”, means a complete residential house and not shared interest in a residential house. Thus, where the property is owned by more than one person, it cannot be said that any one of them is the owner of the property. Ownership of a residential house, means ownership to the exclusion of all others.
- In this way, in the present case, assessee being a co-owner cannot say that the Goa flat is fully and wholly owned by him, thus he can claim exemption under section 54F.
- Therefore, in such circumstances, assessee could not be treated as 'absolute owner' of the residential flat situated at Goa and the exemption under section 54F cannot be denied to the assessee.
- Taking over-all view of the matter, Tribunal gave the direction that the Assessing Officer should allow the exemption u/s 54F of the Act.

Transfer Pricing

AT & S Austria Technologie & Systemtechnik Aktiengesellschaft vs. DCIT, Circle-11(1), Kolkata [ITAT Kolkata] [AY 2013-14] [TS-117-ITAT-2020(Kol)-TP]

Interest on Loan and Advances

LIBOR is the appropriate benchmark interest rate for intra-group loans denominated in foreign currency.

Indian Transfer Pricing Laws contained in Chapter X of the Act has not contemplated determination of ALP of an international transaction in two different ways in the hands of payee and the payer. In the event it is done, the same would produce anomalous result which is never intended by the Legislature

IT Pooling Cost

The costs incurred by the Assessee for arranging IT products and related services were allocated to the parties to the aforesaid agreement on actual basis (i.e. without adding any profit element to the cost) using appropriate allocation keys mentioned in the aforesaid agreement. Thus, there was complete identity between the contributors to the IT cost pool and participators in the benefit under the aforesaid agreement i.e. both parties having been AT&S group companies. The fund contributed by the group companies was not spent for any purpose which was not within the scope of the aforesaid agreement. Thus, payment made by AT&S India to the Assessee was in the nature of reimbursement of cost

Facts:

- AT & S Austria Technologie & Systemtechnik Aktiengesellschaft (hereinafter referred to as AT&S Austria / Assessee), incorporated in Austria and a tax resident of Austria did not have a permanent establishment in India. The AT&S Austria had set up a wholly-owned subsidiary in India namely AT & S India Pvt. Ltd. (hereinafter referred to as 'AT&S India') which was a tax resident of India. The AT&S Austria was regularly filing income tax return in India

- AT&S India ('borrower') raised loans / external commercial borrowing (hereinafter referred to as 'ECB') from AT&S Austria ('lender') The borrower agreed that the rates of interest applicable for the said loans (ECBs) would be LIBOR+350 bps and LIBOR+ 100 bps. The terms of the loan/ ECB were in compliance with the RBI guidelines

- AT&S Austria also entered into a 'Distribution Agreement' with AT&S India under which AT&S India sold its manufactured goods to AT&S Austria for further sale to independent customers outside India. The distributor (i.e. AT&S Austria) made advance payments on request from the supplier (i.e. AT&S India) at interest at 3 months LIBOR(EURO) plus 100 basis points p.a. from the date of receipt of advance. The advance received from the distributor was to be adjusted against future billings and the tenure of the export advance was less than three years (short-term export advance). The same was in accordance to the RBI guidelines

- The Assessee also entered into the 'IT Cost Pooling Agreement' with its group companies including AT&S India under which all the parties to the aforesaid agreement combined together for financing the object of arranging IT products and related services primarily from unrelated IT companies. The cost incurred by the Assessee for arranging IT products and related services was allocated on actual basis to all the parties to the agreement using appropriate allocation keys as mentioned in the aforesaid agreement. No profit element was added to the actual cost for the purpose of allocation of the same to the parties to the aforesaid agreement. AT&S Austria acted as administrator to the periodical cost pooling process and collected the total costs from the parties to the agreement.

- The TP made following adjustments: -
  (i)Receipt of interest on loan and advance (INR 12,59,12,941/-): ALP adjustment being INR 40,34,89,761/-
  The TPO rejected the Assessee's plea and determined the arm's length interest rate in respect of ECB as well as export advance at 20.45% p.a.

(ii) Receipt of IT support service cost (INR 3,58,02,269/-): ALP adjustment being INR 9,48,760/-.
The TPO held in his order that the Assessee provided the requisite services on cost to cost basis. However, in the commercial world, any third party would have provided services along with an element of profit mark-up

- The DRP directed the lower authority to reduce the ALP adjustments in respect of interest on loan & advance and corporate guarantee fee but confirmed the ALP adjustment in respect of IT support service cost

- Aggrieved by the order of the AO/TPO, the assessee fied appeal before ITAT.

Held

The Hon'ble Tribunal held as follows: -

Interest on loan:

- Lending money was not one of the main businesses of the Assessee (AT&S Austria) and AT&S India being a wholly-owned subsidiary of the Assessee, the Assessee was not exposed to significant credit risk in respect of the loan made to AT&S India. Therefore, the credit rating of AT&S India would broadly be the same as that of the Assessee. Hence, the DRP was not justified in adding credit spread of 450 basis points to LIBOR, while determining the arm's length interest rate in respect of loan and advance

- The DRP did not bring on record any comparable uncontrolled transaction under the CUP Method for substantiating that the interest rate of LIBOR plus 450 basis points conformed to the arm's length standard under the CUP Method

- LIBOR is the appropriate benchmark interest rate for intra-group loans denominated in foreign currency and hence, the arm's length interest rate determined by the DRP at LIBOR plus 450 basis points, based on restructuring of the international transaction under consideration, had no legal basis in the light of the decision rendered by the Hon'ble High Court in the matter of CIT vs. Cotton Natural (supra).

- The Tribunal relied on various judgements and held that LIBOR is the appropriate benchmark that conforms to the arm's length standard under the CUP Method and the transactions of loans have to be benchmarked in the respective foreign currency LIBOR rates rather than the domestic market credit ratings

- The Tribunal noted that TPO, after verifying the details submitted by AT&S India, did not direct any ALP adjustment in the hands of AT&S India for AY 2013-14 in respect of payment of interest on loan and advance for the AY under consideration. However, the TPO directed ALP adjustment in the hands of the Assessee (AT &S Austria) in respect of the same international transactions for the same AY

- The Tribunal held that once it was admitted by the TPO that the payments of interest on ECB and advance were at arm's length in the hands of AT&S India for AY 2013-14 (i.e. the said transactions did not result in shifting of profit out of Indian tax jurisdiction in the hands of AT&S India), it was unsustainable for the TPO to hold that the same international transactions as aforesaid resulted in shifting of profit out of Indian tax jurisdiction in the hands of the Assessee for the same AY as mentioned herein above and to make ALP adjustment in the hands of the Assessee (AT & S Austria) in respect of the said interests

- The Tribunal held that the Indian Transfer Pricing Laws contained in Chapter X of the Act has not contemplated determination of ALP of an international transaction in two different ways in the hands of payee (i.e. Assessee in the instant case- AT & S Austria) and the payer (i.e. AT&S India in the instant case). In the event it is done, the same would produce anomalous result which is never intended by the Legislature. Thus, the approach adopted by the TPO to benchmark the same international transaction in two different ways in the hands of two different taxpayers for the same assessment year signifies arbitrariness in the action of the TPO. ITAT thus opined that DRP erred in directing ALP adjustment in respect of the aforesaid interest on loan and advance in the hands of the Assessee

- The Tribunal noted that the Assessee granted loan and advance to AT&S India in foreign currency (Euro) and AT&S India repaid principal / paid interest on loan and advance in foreign currency (Euro). Hence, in the instant case, Euro-LIBOR would be the appropriate benchmark that conforms to the arm's length standard under the CUP Method. The Assessee applied the Euro-LIBOR rates prevailing during the relevant period for computation of interest payable by AT&S India to the Assessee and further added credit spread of 350 basis points (net of tax) for loan and 100 basis points for advance. Hence, the interest received by the Assessee from AT&S India was at arm's length under the CUP Method. The DRP did not bring on record any comparable uncontrolled transaction under the CUP Method for substantiating that the interest rate of LIBOR plus 450 basis points conformed to the arm's length standard under the CUP Method. Therefore, taking into account these facts and circumstances as narrated above the Tribunal deleted the adjustment

IT Cost Pooling Agreement

- The payment made by AT&S India to the Assessee was in the nature of reimbursement of cost whereby AT&S India paid its due share of the expenses incurred by the Assessee on the IT system maintained under the IT Cost Pooling Agreement. Hence, the recovery of cost in the hands of the Assessee could not be income chargeable to tax in India

- The Tribunal noted that the Assessee entered into 'IT Cost Pooling Agreement' with its group companies including AT&S India under which all the parties to the aforesaid agreement combined together for financing the object of arranging IT products and related services for all the parties to the aforesaid agreement. No third party (i.e. third party means entity not being party to the 'IT Cost Pooling Agreement') was given access to the IT products and related services arranged by the Assessee under the 'IT Cost Pooling Agreement'. The costs incurred by the Assessee for arranging IT products and related services were allocated to the parties to the aforesaid agreement on actual basis (i.e. without adding any profit element to the cost) using appropriate allocation keys mentioned in the aforesaid agreement. Thus, there was complete identity between the contributors to the IT cost pool and participators in the benefit under the aforesaid agreement i.e. both parties having been AT&S group companies. The fund contributed by the group companies was not spent for any purpose which was not within the scope of the aforesaid agreement. Thus, payment made by AT&S India to the Assessee was in the nature of reimbursement of cost. Thus, the Tribunal deleted the addition

Indirect Taxation

Proposed amendment to CGST Act, 2017 & IGST Act, 2017 Finance Bill, 2020

- **Section 16(4) - Time limit for taking credit of debit note.**
  Date of issuance of debit note is delinked from the date of issuance of invoice for purposes of availing input tax credit.

- **Cancellation of voluntary registration**
  Section 29(1) of the CGST Act, amended to provides for cancellation of registration which has been obtained voluntarily under section 25(3).

- **Section 10- Composition Scheme**
  Conditions for eligibility to pay tax under composition are harmonized.

  Certain categories of taxable persons, engaged in making
  - Supply of services not leviable to tax under the CGST Act, or
  - Inter-State outward supply of services, or
  - Outward supply of services through an e-Commerce operator, are now excluded from the ambit of the Composition scheme.

  [The above shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint]

- **Single rate of GST for lottery**
  Single rate of GST @ 28% on both State run and State authorized lottery
  This change shall become effective from 1st March 2020
  (Notification No. 01/2020-Central Tax (Rate) dated 21 February 2020

- **Due date extended of GSTR-3B for the period January-2020 to March-2020**

Aggregate turn over in the previous FY	And Taxpayer having principal place of business in the State/ UT of	Due date
More than Rs. 5 Cr	Anywhere in any State or UT	20th of Next Month
Less than Rs. 5 Crore	State of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	22nd of Next Month
Less than Rs 5 Crore	State of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.	24th of Next Month

(Notification No. 07/2020 – Central Tax Dated 03 February 2020)

- **Due dates for furnishing GST Annual Return and Reconciliation Statement (GSTR-9 / 9A and GSTR-9C) for FY 2017-18 extended in a staggered manner for different groups of States as under.**

Registered person, whose principal place of business is in	Due date for furnishing return under section 44 of the said Act
Chandigarh, Delhi, Gujarat, Haryana, Jammu and Kashmir, Ladakh, Punjab, Rajasthan, Tamil Nadu, Uttarakhand.	5th February 2020
Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry, Sikkim, Telangana, Tripura, Uttar Pradesh, West Bengal, Other Territory.	7th February 2020

(Notification No. 06/2020-Central Tax dated 03-02-2020)

- **Export data in Shipping Bills to include District level details.**

Board has decided to incorporate additional attributes in the Shipping Bill to enable the Customs System to capture the Districts and States of Origin for goods being exported. The initiative is also aimed at bringing uniformity with the data/ information captured in the GSTN.

With effect from 15 February 2020, declaration of GSTIN shall also be mandatory in import/ export documents for the importers and exporters registered as GST taxpayers.

The following additional information will be required to be furnished for every item in the Shipping Bill:-

(i) State of Origin of goods.
(ii) District of Origin of goods.
(iii) Details of Preferential Agreements under which the goods are being exported, wherever applicable.
(iv) Standard Unit Quantity Code (SQC) for that CTH as per the first schedule of the Customs Tariff Act, 1975

(Circular No.09/2020-Customs dated 5th February, 2020)

- **Scheme for Rebate of State and Central taxes and Levies (ROSCTL) on export of garments and made-ups**

Ministry of Textiles had notified a new scheme called "Scheme for Rebate of State and Central Taxes and Levies" (ROSCTL) on export of garments and made-ups **vide Notification No. 14/26/2016-IT (Vol II) dated 7 th March, 2019, w.e.f. 7 th March, 2019.**

Scheme shall remain in force up to 31 March 2020 and old scheme ROSCTL shall be discontinued
CBIC has issued Circular No. 10/ 2019-Customs dated 12 March, 2019, Notification No. 13/2020 – Customs dated 14 February, 2020 and Notification No. 1/2020 – Central Excise dated 14 February, 2020 on the above subject.

Under the scheme Central Government shall provide for rebate of State and Central Taxes and Levies in addition to Duty Drawback Scheme, through the Scheme for RoSCTL on export of Garments and Made-ups at notified rates and value caps.

MCA UPDATES

COMPANIES (COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS) AMENDMENT RULES, 2020

- In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, (hereinafter referred to as the principal rules), in rule 3, after sub-rule (4), the following sub-rules shall be inserted, namely:— "(5) A member of the company shall make an application for arrangement, for the purpose of takeover offer in terms of sub-section (11) of section 230, when such member along with any other member holds not less than three-fourths of the shares in the company, and such application has been filed for acquiring any part of the remaining shares of the company. Explanation I.—"shares" means the equity shares of the company carrying voting rights, and includes any securities, such as depository receipts, which entitles the holder thereof to exercise voting rights. Explanation II.—Nothing in this sub-rule shall apply to any transfer or transmission of shares through a contract, arrangement or succession, as the case may be, or any transfer made in pursuance of any statutory or regulatory requirement. (6) An application of arrangement for takeover offer shall contain:- (a) the report of a registered valuer disclosing the details of the valuation of the shares proposed to be acquired by the member after taking into account the following factors:— (i) the highest price paid by any person or group of persons for acquisition of shares during last twelve months; (ii) the fair price of shares of the company to be determined by the registered valuer after taking into account valuation parameters including return on net worth, book value of shares, earning per share, price earning multiple vis-à-vis the industry average, and such other parameters as are customary for valuation of shares of such companies. (b) details of a bank account, to be opened separately, by the member wherein a sum of amount not less than one-half of total consideration of the takeover offer is deposited.". 3. In the principal rules, in Schedule of Fees, for S.No. 1, the following shall be substituted namely:— "1. Sub-section (1) of section 230 3 Application for compromise arrangement and amalgamation. Rs. 5,000/-"

NIDHI (AMENDMENT) RULES, 2020:

- In exercise of the powers conferred by sub-section (1) of section 406 read with subsections (1) and (2) of section 469 of the Companies Act, 2013, the Central Government hereby makes the this rule, to amend the Nidhi Rules, 2014.
- In the said rules, in place of Form NDH-1, NDH-2 & NDH-3 the following forms shall be substituted.
- They shall come into force on 10th February, 2020

COMPANIES (ISSUE OF GLOBAL DEPOSITORY RECEIPTS) AMENDMENT RULES, 2020:

- In exercise of the powers conferred by section 41 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the this rule to amend the Companies (Issue of Global Depository Receipts) Rules, 2014.
- In the Companies (Issue of Global Depository Receipts) Rules, 2014 (hereinafter referred to as the said rules), in rule 2,- (i) for the words, brackets and figures "Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993" at both the places where they occur, the words and figures "Depository Receipts Scheme, 2014" shall be substituted; (ii) in sub-rule (1), after clause (a), the following clause shall be inserted, namely:- „(aa) „"overseas depository" or "overseas depository bank" shall mean „foreign depository" as defined in the Scheme.". 3. In the said rules, in rule 5,- (i) for sub-rule (1), the following sub-rule shall be substituted, namely:- "(1) The depository receipts can be issued by way of public offering or private placement or in any other manner prevalent in the concerned jurisdiction and may be listed or traded on the listing or trading platform in the concerned jurisdiction."; (ii) in sub-rule (3), the word "abroad" shall be omitted.
- In the said rules, in rule 7, the following proviso shall be inserted, namely:- "Provided that proceeds of issue of depository receipts may be remitted in an International Financial Services Centre Banking Unit (IBU) and utilised in accordance with the instructions issued by the Reserve Bank of India from time to time.". 5. In the said rules, in rule 9, in sub-rule (1), the word "abroad" shall be omitted.
- They shall come into force on the date of their publication in the Official Gazette.

NIDHI (AMENDMENT) RULES, 2020:

- In exercise of the powers conferred by sub-section (1) of section 406 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes this rule further to amend the Nidhi Rules, 2014.
- They shall come into force on the date of their publication in the Official Gazette.
- In the Nidhi Rules, 2014, in rule 23A, for the words "six months" the words "nine months" shall be substituted.

COMPANIES (REGISTRATION OFFICES AND FEES) AMENDMENT RULES, 2020:

- In exercise of the powers conferred by sections 396, 398, 399, 403 and 404 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes this rule further to amend the Companies (Registration Offices and Fees) Rules, 2014.
- For form No. GNL-2, the following form shall be substituted.
- They shall come into force on the date of their publication in the Official Gazette.

COMPANIES (INCORPORATION) AMENDMENT RULES, 2020:

- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes this rule further to amend the Companies (Incorporation) Rules, 2014.
- In the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the said rules), for rule 9, the following rule shall be substituted, namely:- "9. Reservation of name or change of name.- An application for reservation of name shall be made through the web service available at www.mca.gov.in by using web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32), and for change of name by using web service RUN (Reserve Unique Name) along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, which may either be approved or rejected, as the case may be, by the Registrar, Central Registration Centre after allowing re-submission of such web form within fifteen days for rectification of the defects, if any, with effect from the 23rd February, 2020."
- In the said rules, in rules 10, 12, sub-rule (1) of rule 19, sub-rules (1), (2), (3), (4), (7) and (9) of rule 38, for the words, letters, figures and brackets,, "Form No INC-32 (SPICe), wherever they occur, the letters, brackets, words and figures "SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32)" shall be substituted with effect from the 23rd February, 2020.
- In the said rules, in rule 38, in the marginal heading, for the word, brackets and letters "Electronically (SPICE)", the words, brackets and letters "Electronically Plus (SPICE+)" shall be substituted with effect from the 23rd February, 2020.
- In the said rules, in rule 38A,-
  - (i) in the marginal heading, for the words, brackets and letters "and Employees' Provident Fund Organisation (EPFO) Registration", the words, brackets and letters ",Employees' Provident Fund Organisation (EPFO) Registration and Profession Tax Registration and Opening of Bank Account" shall be substituted;
  - (ii) for the letters "AGILE", the letters "AGILE-PRO", shall be substituted;
  - (c) the following clauses shall be inserted, namely:- "(c) Profession Tax Registration with effect from the 23rd February, 2020
  - (d) Opening of Bank Account with effect from 23rd February, 2020.". 6. In the said rules, in the annexure,- (I) for forms "RUN, e-form No INC-32 (SPICe), and e-form No.INC-35 (AGILE), the following forms shall be substituted.

    They shall come into force with effect from the 23rd February, 2020.

COMPANIES (APPOINTMENT AND EUALIFICATION OF DIRECTORS) AMENDMENT RULES, 2020

- In exercise of the powers conferred by section 149 read, with section 469 of the Companies Act,2013 (1g of 2013), the Central Government hereby makes the this rule further to amend the companies (Appointment and Qualification of Directors) Rules, 2014.

- In the Companies (Appointment and eualification of Directors) Rules, 2014, in rule 6, -
  (a) in sub-rule (1), in clause (a), for the words, three months, the words "five months" shall be substituted;
  (b) in sub-rule (4),- (i) for the first proviso, namely:- the following proviso shall be substituted, "Provided that an individual shall not be required to pass the online proficiency self-assessment test, when he has served as a director or key managerial personnel, for a total period of not less than ten years, as on the date of inclusion of his name in the data-bank, in one or , more of the following, namely:-
  (a) listed public company; or
  (b) unlisted public company having a paid-up share capital of rupees ten crore or more; or
  (c) body corporate listed on a recognized stock exchange:,,. (ii) in the second proviso, for the word ,,companies,,, the words "companies or bodies corporate" shall be substituted.

They shall come into force on the date of their publication in the Official Gazette.

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