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I. CHART OF FORTHCOMING DUE DATES: -

a) GST due dates falling in the month of September 2021.

Sr No.	Particulars	Due Date
1.	GSTR-1 (Monthly)	11.9.21
2.	GSTR-1 (QRMP)	13.9.21
2.	GSTR-3B	20.9.21

b) Others due dates falling in the month of September 2021

Sr No.	Particulars	Due Date
1	TDS Payment	07.09.2021
2	ECB-2	07.09.2021
3	Advance tax payment	15.09.2021
4	PF Payment	15.09.2021
5	Income tax return filing for individuals, Non corporate who are not liable to Tax audit for AY 21-22	30.09.2021
6	DIR-3 KYC	30.09.2021

II. OVERVIEW:

○ HIGHLIGHTS OF CORPORATE SOCIAL RESPONSIBILITY (CSR)

○ **Applicability:**

- 1) Applicability of CSR provisions are company specific and CSR provisions are not applicable to a company merely because of applicability of CSR provisions to such company's holding or subsidiary company.
- 2) CSR provisions are equally applicable to a Section 8 companies also.
- 3) CSR provisions are applicable to newly incorporated companies as well, if the criteria under Section. 135(1) is met irrespective of number of financial years it is in existence. However, for the purpose of calculation of CSR spending obligation average Net Profits made during immediately preceding financial year(s) to be considered (1/2/3 years as the case may be).

○ **CSR by company & Government intervention:**

- 4) CSR is a board-driven process; the Government has no direct role in the approval and implementation of the CSR programmes / projects of a company.
- 5) With effect from 22nd January, 2021 Non-compliance of CSR Provisions will be reckoned as Civil Offence and action can be initiated by the Government as per provisions of the **Companies Act, 2013** (the Act) after due examination of records of such non compliant companies, and by following due process of law.
- 6) CSR should not be interpreted as a source of financing the resource gaps in Government Schemes. However, the Board may undertake similar activities independently.

○ **Calculation of Average Net Profits**

- 7) i) Average Net Profits to exclude the items specified in Rule 2(1)(h) of the Companies (CSR Policy) Rules, 2014 (viz., profits from overseas Branches & dividends received from other CSR applicable/compliant companies).
- ii) Certain additions/deletions (adjustments) to be made while calculating the net profit of a company as per Section 198 (mainly it excludes capital payments/receipts, income tax, set-off of past losses).
- iii) Profit Before Tax(PBT) is to be used for computation of net profit under Section 135 of the Act.

○ **Project Cost vis-à-vis Administrative Overheads:**

- 8) i) **Project Cost:** Expenses which are directly incurred for the designing, implementation, monitoring, and evaluation of a particular CSR project or programme. Expenses which are attributed to the project implementation shall be included in project cost only.

ii) Administrative Overheads: Administrative overheads generally comprise of items such as employee costs, utilities, office supplies, legal expenses, etc.

a) Permissible administrative overheads limit for a financial year is five per cent of the total CSR expenditure of the company.

b) CSR spending under Sec 135 cannot be claimed as business expenditure.

○ **Excess CSR spending and Set off:**

9) Excess CSR spending more than the required can be set off against the requirement of immediately succeeding 3 financial years subject to compliance with the conditions stipulated under rule 7(3). However, excess spent in financial years prior to FY 2020-21 shall not be allowed to carry forward.

○ **Monetization not allowed:**

10) CSR contribution **CANNOT be in kind** and **CANNOT** be monetized.

11) Involvement of employees in CSR projects of a company cannot be monetized and accordingly cannot be accounted for under the head of 'CSR expenditure.

○ **Treatment of Unspent CSR Amount:**

12) Company needs to open a separate 'Unspent CSR Account' for each financial year w.r.t ongoing project(s) but not for each ongoing project.

13) The amount transferred to 'Unspent CSR Account' has to be used only for meeting the expenses of ongoing projects, and not for other general purposes of the company. The special account cannot be used by the company as collaterals or creating a charge or any other business activity.

14) The Board of the company is free to decide the treatment of the unspent CSR amount of previous financial years prior to FY 2020-21. The Board can either transfer the amount to 'Unspent CSR Account' or continue as per the previous accounting practices adopted by the company.

III. INCOME TAX ACT

NOTE ON CHARITABLE TRUST

Types of Charitable Institutions

Following are various types of charitable institutions :

Public Trusts	Where the beneficiaries include the general public at large, public trust can be established for charitable, educational, medical or religious purposes. It shall be mandatory for such trust to be registered with the charity Commissioners of respective states
Societies	A charitable institution can also be incorporated as a society mainly when activities to be carried out are non-commercial in nature. However under the Act, they are treated as public trust only.
Company	One may also incorporate a limited company under Section 8 of the Companies Act, 2013 to carry out charitable activities. It shall be advisable for a charitable institution to be incorporated as a company if it is going to accept foreign donations or government grants.

Registrations under the Act:

Mandatory Registration under the Act

Once the trust/institution is incorporated as any one of the above legal entity, it shall then be required to get itself mandatorily registered either under **Section 12A** or under **Section 10(23C)** of the Act, **but not both**. Without either of these registrations, all the donations and the receipts of the institutions shall be subjected to tax without any set off for expenditure incurred.

Normal Registration

As per **Section 12A/10(23C)** and other related provisions, trust or institution is required to apply for fresh, renewal or provisional registration in **Form 10A** which is to be filled online and shall be furnished electronically. Form shall be verified by the person who is authorized to verify the return of income.

Before the **Finance Act, 2020**, above

Provisional Registration

Provisional registrations are applied for when the trust or institution has not started its charitable activities. **Form 10AB** is required to be filed for the purpose of conversion of provisional registration into final registration. In case of provisional registration, it shall be valid for **3 years**.

registrations once granted were valid in perpetual. However, after the above act, the registrations now granted, shall remain valid for 5 years, after which application has to be made in the same form for renewal.

Registration under Section 80G of the Act

Registration under **Section 80G** is required only when trust or institution wants to pass on tax benefits to its donors in the form of eligible tax deductions. More often than not, trusts or charitable institutions opt for registration under **Section 80G** as well. However, it is mandatory to have registration under **Section 12A/10(23C)** before applying for registration under 80G. This registration, which was earlier valid perpetually once granted, now needs to be renewed every 5 years just like the applications under **Section 12A/10(23C)**.

Benefits of above registrations under the Act

On registration under the Act, trusts or institutions get recognized as charitable or religious trust and shall get special benefits and treatment for taxation. The most important ones are:-

Complete Tax Exemption

The most important reason for getting the charitable entity registered under the Act is to avail full tax exemptions, subject to fulfillment of certain conditions.

Tax Deduction to Donor

Registration of trust as per income tax law can be beneficial for donor also. As such the donors do not receive any monetary benefits by making the donations. But as a general encouragement to the members of public to come forward and do the charity, the Act provides such donors to deduct the amount of donations made to the registered trusts and institutions from their total income, subject to certain limits and to pay tax only on the balance income

Annual filing and statutory compliance:

Other than the compliance of the charity commissioners, the Act also mandates compulsory filing of returns, adherence with the **Tax Deducted at Source ('TDS')** rules, tax audits, prohibition on acceptance of donations in cash exceeding Rs. 2,000/-, no tax exemption for anonymous donations to charitable institutions and renewal in 5 years of its registrations among other things.

IV. COMPANY LAW

HIGHLIGHTS OF LIMITED LIABILITY PARTNERSHIP (AMENDMENT) ACT, 2021

Limited Liability Partnership (Amendment) Bill, 2021 was introduced in both houses of Parliament and the Union Cabinet gave its approval on *28th July, 2021* and received the approval of the President on *13th August, 2021* and became Limited Liability Partnership Act, 2021. The Amendment seeks to facilitate greater ease of living to law-abiding corporates and to decriminalize certain provisions of the Act.

Key Facets of Amendments :-

◆ APPLICABILITY:

- It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Amendment Act.

◆ INTRODUCTION OF SMALL LLPs:

- **“Small Limited Liability Partnership”** means a Limited Liability Partnership –
 - √ the contribution of which does *not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees*, as may be prescribed; **AND**
 - √ the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does **not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees**, as may be prescribed; **OR**
 - √ which meets such other requirements as may be prescribed and fulfils such terms and conditions as may be prescribed.

◆ DE-CRIMINALIZATION OF MONETARY PENALTIES:

- The overall number of criminal provisions under the LLP Act, 2008 will be reduced to 22, with compoundable offences reduced to 7, non-compoundable offences reduced to 3. Total 12 offences are decriminalized under LLP Act, 2008.

◆ COMPOUNDING OF OFFENCE:

- The LLP (Amendment) Act, 2021 substituted Section 39 of the LLP Act, 2008 fully. Key features of the same are as follow;
 - √ The Regional Director or any other officer not below the rank of Regional Director authorized by the Central Government may compound any offence under this Act which is punishable with fine only;
 - √ The Regional Director or any other Officer can collect a sum from a person reasonably suspected of having committed the offence which may extend to the amount of the maximum fine provided for the offence but shall not be lower

than the minimum amount provided for the offence. It is hereby clarified that any second or subsequent offence committed after the expiry of the period of three years from the date on which the offence was previously compounded, shall be deemed to be the first offence.

√ Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Regional Director.

◆ **RESIDENT OF INDIA:**

- The LLP (Amendment) Act, 2021 amended the Section 7(1) of the LLP Act, 2008 by substituting the words “eighty-two days during the immediately preceding one year” by “**twenty days during the financial year**”.
- Therefore, a person who is resident in India for just **20 days in financial year** can be appointed as Designated Partner.

◆ **NAMES WHICH ARE NOT ALLOWED:**

- The LLP (Amendment) Act, 2021 amended the Section 15(2) by substituting the following matters;
√ No limited liability partnership shall be registered by a name which, in the opinion of the Central Government is identical or too nearly resembles to that of any other limited liability partnership or a company or a registered trademark of any other person under the Trade Marks Act, 1999.

◆ **CHANGE OF NAME OF LIMITED LIABILITY PARTNERSHIP:**

- The LLP (Amendment) Act, 2021 has fully substituted the Section 17 of the LLP Act, 2008 and also omitted the Section 18 of the LLP Act, 2008. The key features of amended Section 17 are as under;
√ In case of same name Central Government may direct to change the name within 3 months from the date of issue of such direction and the Proprietor of registered trademarks can make application within a period of three years from the date of incorporation or registration or change of name of the limited liability partnership under the LLP Act, 2008.

PAYMENT OF ADDITIONAL FEES:

- The LLP (Amendment) Act, 2021 has substituted the entire Section 69 of the LLP Act, 2008. Key features of the same are as under;
√ It shall be noted that different fees or additional fees may be prescribed for different classes of Limited Liability Partnerships or for different documents or returns required to be filed under the LLP Act, 2008 or Rules made thereunder.

V. GST

ITC ON MOTOR VEHICLES UNDER GST : AN ANALYSIS

- Section 17(5) of **CGST Act** denies input tax credit on the specific supplies received by a registered person. Input tax credit on motor vehicles used for transportation of persons is ineligible.
- According to Section 17(5) (a) of CGST Act, input tax credit is not available on motor vehicles used for transportation of persons having approved seating capacity of less than thirteen persons, this includes the seat of the driver.
- At the same time, if such motor vehicles are used for making the following taxable supplies, input tax credit is available:
 - A. Further supply of such motor vehicles – the registered person is in the business of selling such motor vehicles
 - B. Transportation of passengers – the registered person is in the business of transport services of passengers
 - C. Imparting training on driving such motor vehicles – the registered person is in the business of providing training on driving by using such motor vehicles
- Also Section 17(5) (ab) of CGST Act, denies **input tax credit** on the services of general insurance, servicing, repair and maintenance for the motor vehicles having seating capacity of less than thirteen.
- At the same time input tax credit is available on the services related to motor vehicle insurance, repair and maintenance of such vehicles if they are used for the purposes mentioned in the Points A, B & C as above.
- Apart from the points A, B & C above, ITC is available on the services of general insurance, servicing, repair and maintenance as received by a taxable person engaged in the manufacture of such motor vehicles or who is involved in the supply of general insurance services in respect of such motor vehicles.
- **ITC on Motor Vehicles used for transportation of goods**
- ITC on Motor vehicles used for transportation of goods in the business is available and ITC on the services of general insurance, servicing, repair and maintenance for such vehicles is also available.
- CGST Act denies ITC on motor vehicles only on those mentioned in the Section 17(5) (a) with some inclusions and exclusions as discussed above, otherwise there is no restriction on availing ITC on other motor vehicles when they are used for business purposes.

- **Summary**

1. ITC is not available on motor vehicles used for transportation of persons having seating capacity of less than 13 including driver's seat
2. ITC is not available on the services of general insurance, servicing, repair and maintenance on motor vehicles used for transportation of persons having seating capacity of less than 13 including driver's seat
3. ITC is available to the registered persons who further supplies such motor vehicles having seating capacity less than 13
4. ITC is available to the registered persons who is involved in the business of transportation of passengers even if such motor vehicles having seating capacity less than 13
5. ITC is available to the registered persons who provides training on driving on motor vehicles having seating capacity of less than 13
6. ITC is available on services of general insurance, servicing, repair and maintenance on motor vehicles having seating capacity less than 13 as long as they are used for providing the supplies as mentioned in Points No.3, 4 & 5 above and to those who are involved in the manufacture of such vehicles and are in the business of providing general insurance services for such motor vehicles
7. ITC available on motor vehicles used for transportation of goods
8. ITC available on the services of general insurance, servicing, repair and maintenance of motor vehicles used for transportation of goods

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