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INSIDE THE ISSUE:

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CHART OF FORTHCOMING DUE DATES: -

A. GST DUE DATES FALLING IN THE MONTH OF DECEMBER, 2021.

Sr No.	Particulars	Due Date
• 1	GSTR-1 (Monthly)	11.12.21
• 2	GSTR-1 (QRMP)	13.12.21
• 3	GSTR-3B	20.12.21

B. OTHERS DUE DATES FALLING IN THE MONTH OF DECEMBER, 2021

Sr No.	Particulars	Due Date
• 1	TDS Payment	07.12.2021
• 2	ECB-2	07.12.2021
• 3	PF Payment	15.12.2021
• 4	Advance Tax payment	15.12.2021
• 5	Income Tax return	31.12.2021
• 6	Filing of Financial in ROC	30.12.2021
• 7	Filing of LLP form 8	30.12.2021

I. OVERVIEW:

PRODUCTION LINKED INCENTIVE (PLI) SCHEME:

The Union Cabinet chaired by Prime Minister Narendra Modi, on November 11, 2020, approved the introduction of the PLI scheme for the 10 key sectors which can enhance India's Manufacturing Capabilities and improve exports.

Based on the ten sectors to which the Production Linked Incentive scheme was expanded to, the government aims at achieving the following targets:

- **The government aims to make India an integral part of the global supply chain and enhance exports**
- **India is expected to have a USD 1 trillion digital economy by 2025 as it expects the demand for electronics to increase under its projects like Smart City and Digital India**
- **The PLI scheme will make the Indian automotive Industry more competitive and will enhance the globalisation of the Indian automotive sector**
- **The Indian Textile Industry is one of the largest in the world and with this scheme, it shall attract large investment in the sector to further boost domestic manufacturing, especially in the manmade fibre (MMF) segment and technical textiles**
- **India, being the second-largest producer of steel in the world, introducing it under the PLI scheme will benefit the country as it may expand export opportunities**
- **Similarly, telecom, solar panels, pharmaceuticals, white goods, and all the other sectors introduced can contribute to the economic growth of the country and make India a manufacturing hub globally**

PRODUCTION LINKED INCENTIVE SCHEME IS COVERED FOR FOLLOWING SECTOR:

o Mobile Manufacturing and specified electronics
o Manufacturing of Medical Devices
o Electronic Technology Products
o Pharmaceutical Drugs
o White Goods
o High efficiency solar PV modules

- **o Speciality Steel**
- **o Textile**
- **o Automobiles and drones**
- **o Food Processing**
- **o Telecom**

VALUE ADDITION WILL BE BROUGHT IN BY THE PLI

– NEW TYPES OF INDUSTRIES, ENCOURAGEMENT TO MSMES/ANCILLARISATION ETC:

The PLI scheme envisages product diversification and incentives will be given for efforts of the participants which go for high value added products which are listed under the scheme. It also envisages to make the country self-reliant in many of the intermediate products. It is proposed to meet the objective of enhance manufacturing capabilities in the country by supporting firms with the potential of becoming global champions. However, given the nature of the sector, there will also be a provision for supporting some MSMEs within the Scheme.

What are the incentives involved?

An incentive of 4-6 per cent was offered last year on mobile and electronic components manufacturing such as resistors, transistors, diodes, etc. Similarly, 10 per cent incentives were offered for six years (FY22-27) of the scheme for the food processing industry. SMEs in the four areas such as ready to cook or ready to eat, processed fruits and vegetables, marine products, and mozzarella cheese will also be supported for manufacture innovative and organic products, according to the ministry. For white goods too, the incentive of 4-6 per cent on incremental sales of goods manufactured in India for a period of five years was offered to companies engaged in the manufacturing of air conditioners and LED lights. During the first five months of the scheme, the companies in electronics manufacturing, which had applied for the scheme, produced goods worth around Rs 35,000 crore and invested around Rs 1,300 crore under the scheme.

II. INCOME TAX ACT

PANDORA PAPERS SHOW HOW INDIAN TAX LAWS BENEFITS ONLY THE RICH

What do the Pandora Papers reveal?

The Pandora Papers reveal how the rich, the famous and the notorious, many of whom were already on the radar of investigative agencies, set up complex multi- layered trust structures for estate planning, in jurisdictions which are loosely regulated for tax purposes, but characterised by air-tight secrecy laws. The purposes for which trusts are set up are many, and some genuine too. But a scrutiny of the papers also shows how the objective of many is two-fold:
i) to hide their real identities and distance themselves from the offshore entities so that it becomes near impossible for the tax authorities to reach them and,
ii) to safeguard investments — cash, shareholdings, real estate, art, aircraft, and yachts — from creditors and law enforcers.

What is a trust?

A trust can be described as a fiduciary arrangement where a third party, referred to as the trustee, holds assets on behalf of individuals or organisations that are to benefit from it. It is generally used for estate planning purposes and succession planning. It helps large business families to consolidate their assets — financial investments, shareholding, and real estate property. A trust comprises three key parties: 'Settlor' — one who sets up, creates, or authors a trust; 'trustee' — one who holds the assets for the benefit of a set of people named by the 'settlor'; and 'beneficiaries' — to whom the benefits of the assets are bequeathed. A trust is not a separate legal entity, but its legal nature comes from the 'trustee'. At times, the 'settlor' appoints a 'protector', who has the powers to supervise the trustee, and even remove the trustee and appoint a new one.

So, why are trusts set up? And why overseas? What should you also know?

Overseas trusts offer remarkable secrecy because of stringent privacy laws in the urisdiction they operate in. A lot depends on the intention behind setting up an offshore trust — and if the taxman can provide evidence that suggests mala fide intent by the trust, then the courts tend to back the tax department in their attempt to recover the taxes due.

From the investigation, some key tacit reasons why people set up trusts are:

i) Maintain a degree of separation: Businesspersons set up private offshore trusts to project a degree of separation from their personal assets. A ‘settlor’ (one who sets up/ creates/ authors) of a trust no longer owns the assets he places or ‘settles’ in the trust. This way, he insulates these assets from creditors.

ii) Hunt for enhanced secrecy: Offshore trusts offer enhanced secrecy to businesspersons, given their complex structures. The Income-Tax Department in India can get to the ultimate beneficial owners only by requesting information with the financial investigation agency or international tax authority in offshore jurisdictions. The exchange of information can take months.

iiii) Avoid tax in the guise of planning: Businesspersons avoid their NRI children being taxed on income from their assets by transferring all the assets to a trust. The ownership of the assets rests with the trust, and the son/ daughter being only a ‘beneficiary’ is not liable to any tax on income from the trust. In many business families, children have one foot abroad, hence family patriarchs have increasingly looked at trusts to ensure a hassle-free transfer of assets into their children’s hands.

iv) Prepare for estate duty eventuality: There is pervasive fear that estate duty, which was abolished back in 1985 when Rajiv Gandhi was Prime Minister, will likely be re-introduced soon. Setting up trusts in advance ,business families have been advised, will protect the next generation from paying the death/ inheritance tax ,which was as high as 85 per cent in the more than three decades after its enactment (The Estate Duty Act ,1953). Although India does not have a wealth tax now, most developed countries including the US, UK ,France, Canada, and Japan have such an inheritance tax.

v) Flexibility in a capital-controlled economy: India is a capital-controlled economy. Individuals can invest only $250,000 a year under the Reserve Bank of India’s Liberalised Remittance Scheme (LRS). To get over this, businesspersons have turned NRIs, and under FEMA, NRIs can remit $1 million a year in addition to their current annual income, outside India. Further, the tax rates in overseas jurisdictions are much lower than the 30% personal I-T rate in India plus surcharges, including those on the super-rich (those with annual income over Rs 1 crore).

vi) The NRI angle: Offshore trusts, as noted earlier, are recognised under Indian laws, but legally, it is the trustees — not the ‘settlor’ or the ‘beneficiaries’ — who are the owners of the properties and income of the trust. An NRI trustee or offshore trustee taking instructions from another overseas ‘protector’ ensures they are taxed in India only on their total income from India.

Of late, NRIs are under greater scrutiny of the Income-Tax Department; they have been receiving notices to prove their non-resident status of past years, to check if they made the required disclosure of ‘foreign assets’ in years when they were ordinarily resident in India.

Can offshore Trusts be seen as resident Indian for tax purposes?

There are certain grey areas of taxation where the Income-Tax Department is in contestation with offshore trusts. After The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, came into existence, resident Indians — if they are ‘settlors’, ‘trustees’, or ‘beneficiaries’ — have to report their foreign financial interests and assets. NRIs are not required to do so — even though, as mentioned above, the I-T Department has been sending notices to NRIs in certain cases. The I-T Department may consider an offshore trust to be a resident of India for taxation purposes if the trustee is an Indian resident. In cases where the trustee is an offshore entity or an NRI, if the tax department establishes the trustee is taking instructions from a resident Indian, then too the trust may be considered a resident of India for taxation purposes.

For instance, in one case, an Indian wealth manager has been appointed a ‘protector’ (with powers to supervise the trustee) by an offshore trust, leaving a window open for the taxman.

III. COMPANY LAW

OVERVIEW OF RELATED PARTI TRANSACTIONS (SECTION 188)

Meaning of Related Party' under Section 188 of the Companies Act, 2013
The meaning of the word 'Related Party' is given under Section 188 of the Companies Act, 2013 and also includes the following:

◊ A director or his relative;
◊ Key managerial person or their relative;
◊ A firm where a director, manager or any of his relative is a partner;
◊ A private company where a manager, director or any of his relative is a director or is a member;
◊ A public company where a manager, director holds with their relatives more than 2% of its paid up share capital;
◊ Any person who gives advice, direction or any instruction to director or manager and they are accustomed to act upon that but this excludes the advice, directions and instruction which is given in professional capacity;
◊ Also includes a holding company or subsidiary company or associate company, if any subsidiary have subsidiary then that subsidiary and any person as prescribed;
◊ Body-corporate which is:

- A holding, subsidiary or an associate company of such company;
- A subsidiary's subsidiary company which is subsidiary of holding company;
- An investing company;
- The venture of the company.

DEFINITION OF RELATIVE under Section 2(77) of Companies Act, 2013
Relative is defined under section 2(77) as it includes:

- Member of HUF;
- Spouse;
- Father and Mother;
- Son and his wife;
- Daughter and her husband;
- Brother and sister;
- Step father, mother, son, brother and sister.

But it excludes,

- Grandparents;
- Grandchildren;
- Step daughter;
- Brother's wife;
- Sister's husband.

NATURE OF TRANSACTION:

Any agreement which is entered into with the related party in matter of the following shall be covered under the provision of Section 188 of the Companies Act, 2013:

1. sale, purchase or supply of any goods or materials;
2. selling or disposing of, or buying any kind of property;
3. leasing of any type of property;
4. availing or rendering of any services;
5. appointment of any agent for purchase or sale of goods, materials, services or property;
6. such related party's appointment to any office or place of profit in the company, or at any of its subsidiary;
7. company or associate company; and
8. Underwriting the subscription of any securities or derivatives, of the company.

There are following transactions where a company shall not entered without getting approval from the shareholders of the company by way of passing special resolution:

1. Any contracts or arrangement which is related to Section 188 sub section 1 clause (a) to (e) with the criteria below mentioned:
2. Sale, purchase or supply of any goods or materials, directly or through appointment of agent, that exceeds ten per cent of the turnover of the company.
3. Selling or disposing of or buying property of any kind, directly or through appointment of agent, that exceeds ten per cent of net worth of the company.
4. Leasing of any type of property amounting to ten percent or more of the turnover of the company.
5. Availing or rendering of any services, directly or through appointment of agent, that exceeds ten per cent of the turnover of the company.
6. Any contract or arrangement which is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a remuneration of that exceeds two and half lakh rupees monthly.
7. Any contract or arrangement which is for remuneration for underwriting the subscription of any securities or derivatives of the company that exceeds one per cent of the net worth of the company.

PENALTY:

If any director or any of the employee of the company contravenes the provision of Section 188 of the Companies Act, 2013 shall be punishable:
1. in case the company is listed company then they will be liable for penalty of Rs. 25 lakhs and
2. in case of any other company they will be liable for penalty of Rs. 5 lakhs.

IV. GST

ALL ABOUT INPUT TAX CREDIT UNDER GST & CLAIMING ITC UNDER GST

Know Everything about Input tax credit & claiming ITC under GST

When we purchase something we pay the tax for that particular product or service. Now in the case of the manufacturer, or a person who is not an end-user shall have to pay tax on the total amount of the sale made for a year. Now the manufacturer can deduct the tax that he already paid for the goods from the total amount of services which is referred to as Input Tax Credit. In this article, we have discussed Input Tax Credit under GST.

What is Input Tax Credit?

The tax already paid by a person at the time of purchase of goods or services and which can be deducted from the tax payable is referred to as Input Tax Credit. Input credit refers to the ability to deduct the tax you have already paid on input while paying tax on output.

For example- If the manufacture pays tax on the final product is INR 500, and when there is a purchase for the product at that time the tax paid on the purchase is INR 350, then the manufacture can claim for input credit for the amount of INR 150. in simple terms when manufacture pays tax for the final product and when make purchases the difference in the amount can be claimed by the manufacturer of the product.

What is Input Tax Credit in GST?

Manufacturer, E-commerce operator, supplier, agent, and any other legal entity who is involved in the input credit mechanism, will be eligible for claiming input credit for the tax paid by the payer on a purchase. in simple terms, input credit in GST means the taxpayer can claim Input Tax Credit for the amount they paid at the time of purchase.

ITC rules under GST

- Suppliers can only claim for the input credit based on the last lot, in case of inputs are received in lots.
- Suppliers need to provide documents related to the bill of entry or any similar documents for availing Input Tax Credit.
- Must pay the supplier the value of the products or services, plus tax, within 3 months of the invoice's date of issue, or the sum would be forfeited. The amount of credit available to the recipient would be added to it.

Point to be kept in mind before claiming Input Tax Credit under GST

- Suppliers have filed GST returns.
- A debit note or a tax invoice on a purchase generated by a registered dealer.
- The claim can be done after goods and services are revived by the claimer.
- The tax which is imposed on the purchase must be paid or deposited to the government by a supplier in the form of input credit or through cash.

  A taxpayer cannot claim for Input Tax Credit under GST in the below conditions
- If a supplier has not deposited the taxable amount to the government then in that case, input credit cannot be claimed by the purchaser.
- Goods and services which are purchased for personal use would not allow Input Tax Credit.
- Purchase invoices that are older than 1 year would not be claimed for Input Tax Credit. one year period is calculated based on the date invoice being generated.

V. RBI

LIBERALISED REMITTANCE SCHEME (LRS) FOR RESIDENTS

- **What is the Liberalised Remittance Scheme (LRS) of USD 2,50,000 ?**

  Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both. Further, resident individuals can avail of foreign exchange facility for the purposes mentioned in Para 1 of Schedule III of FEM (CAT) Amendment Rules 2015, dated May 26, 2015, within the limit of USD 2,50,000 only.

  The Scheme was introduced on February 4, 2004, with a limit of USD 25,000. The LRS limit has been revised in stages consistent with prevailing macro and micro economic conditions.

  In case of remitter being a minor, the LRS declaration form must be countersigned by the minor's natural guardian. The Scheme is not available to corporates, partnership firms, HUF, Trusts etc.

- **What are the prohibited items under the Scheme?**

The remittance facility under the Scheme is not available for the following:

i. Remittance for any purpose specifically prohibited under Schedule-I (like purchase of lottery tickets/ sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.

ii. Remittance from India for margins or margin calls to overseas exchanges /overseas counterparty.

iii. Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market.

iv. Remittance for trading in foreign exchange abroad.

v. Capital account remittances, directly or indirectly, to countries identified by the Financial Action Task Force (FATF) as "non- cooperative countries and territories", from time to time.

vi. Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks.

- **Is the AD required to check permissibility of remittances based on nature of transaction or allow the same based on remitters declaration?**

AD will be guided by the nature of transaction as declared by the remitter in Form A2 and will thereafter certify that the remittance is in conformity with the instructions issued by the Reserve Bank in this regard from time to time. However, the ultimate responsibility is of the remitter to ensure compliance to the extant FEMA rules/regulations.

Resident individuals (but not permanently resident in India) can remit up to net salary after deduction of taxes. However, if he has exhausted the limit of USD 2,50,000 as net salary remittance and desires to remit any other income under LRS is it permissible as the limit will be over and above USD 2,50,000?

Resident individuals (but not permanently resident in India) who have remitted their entire earnings and salary and wish to further remit 'other income' may approach RBI with documents through their AD bank for consideration.

What are the requirements to be complied with by the remitter?

The individual will have to designate a branch of an AD through which all the capital account remittances under the Scheme will be made. The applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance.

For remittances pertaining to permissible capital account transactions, if the applicant seeking to make the remittance is a new customer of the bank, Authorised Dealers should carry out due diligence on the opening, operation and maintenance of the account. Further, the AD should obtain bank statement for the previous year from the applicant to satisfy themselves regarding the source of funds. If such a bank statement is not available, copies of the latest Income Tax Assessment Order or Return filed by the applicant may be obtained. He has to furnish Form A-2 regarding the purpose of the remittance and declare that the funds belong to him and will not be used for purposes prohibited or regulated under the Scheme.

Disclaimer:

The issues of concern raised, conclusions reached, and views expressed in the presentation are matters of opinion. Our opinion is based on our understanding of the law and regulations prevailing as of the date of this Note and our experience with the tax and / or regulatory authorities. However, there can be no assurance that the tax authorities or regulators may not take a position contrary to our views. Legislation, its judicial interpretation and the policies of the tax and / or regulatory authorities are also subject to change from time to time, and these may have a bearing on the advice that we have given. Accordingly, any change or amendment in the law or relevant regulations would necessitate a review of our comments and recommendations contained in this Note. Unless specifically requested, we have no responsibility to carry out any review of our comments for changes in laws or regulations occurring after the date of issue of this Note. This presentation is prepared exclusively for knowledge upgradation of members of SUFI and not for solicitation of any assignment. This presentation may not be distributed or otherwise made available to other parties without our consent. Umesh P Gosar & Associates, its promoters, employees and or agents, neither owe nor accept any duty of care or any responsibility to any other party, whether in contract or in tort (including without limitation, negligence or breach of statutory duty) however arising, and shall not be liable in respect of any loss, damage or expenses of whatever nature which is caused to any other party.

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