

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



HYDERABAD BRANCH OF SIRC E-NEWSLETTER

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Dignitaries & Resource Persons at Webinars Conducted by Hyderabad Branch of SIRC of ICAI



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May, 2020



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May, 2020

Chairman Writes...



Dear Professional Colleagues and Students,

Hope each one of you and your family members are safe.

“Change is the Only constant in our life”. Covid 19, along with a lot of negatives, has definitely brought a positive angle in our lives. Many of us, who were working from our offices, client sites and travelling all over the country / world on official work, staying away from families and friends for most of the time have now realised that the official work can be carried on with similar efficiency even from our residence, with the help of technology . The added advantage is being in front of our family and eating quality food at Home. It has also strengthened the family ties when we all help each other in finishing the household chores.

Statutory Bank Branch Audits:

By the time this newsletter reaches you, I am sure, many of you who have got the audit allotment letters would have commenced the audit. At this Juncture, I would like to humbly remind you about the advise given by many senior professionals as well as the leaders of our Institution asking us to take every precaution in completing the audit. We need to give priority to the bank audit and give our best efforts but we should not be forced to complete the audit within the timelines given by the bank. The persons who force you to complete the audit in short time will not be of any help in case any material discrepancy emerges at a later date and god forbid proceedings are initiated against you by ICAI or any other authority.

Hyderabad Branch of SIRC of ICAI has conducted several programmes on Bank audits in the months of March & April 2020. Similarly, several branches all over India have conducted Webinars on topics relevant to bank audits which were available for you to participate. I am hopeful that the aspects covered in these various programmes will be of immense help in successfully completing the Bank Branch audits. All of you who are traveling and will have to be away from Hyderabad need to be extra careful and ensure that you eat healthy.

Webinars:

Hyderabad Branch of SIRC of ICAI has conducted on its own, and by jointly with COE and Nizamabad Chapter, several webinars which were very well received by members across the Country. Members from Dubai, Singapore, Bangkok and other locations also used to regularly participate in our webinars.

In every webinar we have touched the maximum participation limit of 500. The icing on the cake was the Address by our Honorable President of ICAI Shri Atul Gupta ji on Webinar conducted on 15-04-2020. Our Honorable Vice President of ICAI Shri Nihar Jambusaria Ji joined us on 25-04-2020 addressing the members. Past president of ICAI, Shri Nilesh Vikamsey ji, Shri K Raghu, Shri G Ramaswamy and Shri Sunil Talati ji also addressed our members and were with us throughout the webinar, adding their views and guiding the members. I place on record my sincere appreciation to Shri Dayaniwas Sharma Ji, our Central council member in selecting the topics, arranging excellent speakers and being with us in every webinar. I also thank our Regional Council members and my fellow members of the Branch Managing Committee for their help and support in conducting the programmes.

The PPT's received from speakers have already been placed at www.hydicai.org and you can download the same from there. I promise you that we shall be continuing with the Webinars in the months to come and the schedule shall be uploaded in the Branch website.



May, 2020

Classes for Students:

Hyderabad Branch of SIRC of ICAI along with SICASA Hyderabad has conducted Classes for Foundation students in Accounting and the classes for Economics are going on. We have also conducted some webinars on selected topics for benefit of IPCC students.

Due to present situation, ICAI had to postpone the CA Examination original scheduled to be held in May 2020. The schedule and the dates of examination are given elsewhere in the newsletter.

Covid-19 Donations:

The Managing Committee of Hyderabad Branch of SIRC of ICAI thank every member who has contributed to PM Cares Fund, either through ICAI or have made direct contribution. We also thank members who have provided relief to the needy persons in whatever way they can. I urge all the members to continue the good work and live up to the great expectations of Society from Chartered Accountants.

Signing off with a quote:

“Life moves forward. The old leaves wither, die and fall away, and the new growth extends forward into the light.”

Yours Sincerely,

CA Pankaj Kumar Trivedi

Chairman

chairman.hyd@icai.in



Waiving off Condonation Fee for Students

Due to ongoing period of lock down amid Covid-19, it has been observed that students are facing problems in online filing of various application forms related to practical training within prescribed time and such delay is causing levy of condonation fee upon them.

Considering hardship faced by the students, it has been decided to waive off condonation fee on delay filing of all articulated/industrial training related application forms till 30th June 2020 if transaction date in such application forms falls between 1st March 2020 to 30th May 2020. This period includes one-month prescribed time limit given in general.

**Additional Secretary
M&C-MSS SECTION
ICAI**



Completion of MCS and Advanced IT Course through Virtual Mode

Completion of MCS and Advanced IT Course through Virtual Mode as one time measure for Nov,2019 Final (old and result withheld students) pass students due to COVID-19 Pandemic

In view of the ongoing spurt of the COVID-19 virus pandemic and subsequent suspension of IT and Soft Skill classes all across the country, The Council at its 392nd meeting held on April 22,2020 decided that students who have passed final exam. in Nov, 2019 under old scheme and whose result is withheld under new scheme due to non-complete on of MCS and Advance IT course, have given one time relaxation from attending physical MCS & Advanced IT classes and thereby complete the same through the virtual mode through <https://virtualmcs.icaai.org/> and to be eligible for applying membership of the Institute.

Please note that those students who have already registered in www.icaionlineregistration.org for physical MCS and Adv. IT classes and have undergone a few days of classes shall be completing balance training hours in online mode. Such lot of students are also not required to pay the fees. For example, students have 4 days of classes left (either for MCS or Adv. IT), they can login to the VMCS portal and complete 4 days of MCS or Adv. IT classes as required. Further, students who have already registered in www.icaionlineregistration.org and paid the fees for physical MCS and Adv. IT classes and not attended any classes are required to undergo the complete course through Virtual mode.

However, for students who are yet to register themselves will have to register in <https://virtualmcs.icaai.org>. Such students are required to complete the course through virtual

mode by paying Rs. 7000 for MCS and Rs. 7500 for Advanced IT course through the payment gateway. The Portal for Virtual MCS for Nov,19 Final passed Students (under old scheme) will be LIVE w.e.f. 28th April,2020

Please find below the features of Virtual MCS & Virtual Advanced IT:

- ❖ Separate portal/Learning Management system (LMS) is there where the student can login and undergo the course.
- ❖ The student will be able to view day wise session in serial.
- ❖ At the end of the each session, there will be an objective type online test. The certificate will be issued after student clears the entire test. 50% marks are mandatory for clearing the test. In case, student is not able to clear the online test, the student will appear in test again.
- ❖ The duration of the course will be of 15 days.
- ❖ The students undergoing MCS Course through Virtual platform are required to undergo the course contents of Virtual MCS Course.
- ❖ The students undergoing Adv. IT Course through Virtual platform are required to undergo existing syllabus. The complete Virtual Advanced IT course inter-alia includes video lectures, study material, practical assignment, quiz etc.

For any queries/clarification kindly email at:-

MCS - helpdeskgmcs@icaai.in ;

Advanced IT- helpdeskitt@icaai.in



May, 2020

The Institute of Chartered Accountants of India
[Set up by an Act of Parliament]
Post Box No.7112, 'ICAI BHAWAN', Indraprastha Marg
New Delhi - 110002

2nd May, 2020

IMPORTANT ANNOUNCEMENT

POSTPONEMENT OF CHARTERED ACCOUNTANT EXAMINATIONS, MAY 2020*

In continuation to the Important Announcement dated 27th March, 2020, it is hereby notified for general information that in view of the ongoing spurt of the COVID-19 pandemic and in the interest of the well-being of students, the Chartered Accountant Examinations scheduled from 19th June 2020 to 4th July, 2020* stand rescheduled and the said examinations shall now be held from 29th July 2020 to 16th August, 2020 as per details given below.

FOUNDATION COURSE EXAMINATION – Under NEW SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 25 F (3) of the Chartered Accountants Regulations, 1988.]

7th, 9th, 11th & 14th August 2020
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INTERMEDIATE (IPC) COURSE EXAMINATION – Under OLD SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 28 E (3) of the Chartered Accountants Regulations, 1988]

Group-I : 30th July 2020, 2nd, 4th & 6th August 2020
Group-II: 8th, 10th & 13th August 2020

INTERMEDIATE COURSE EXAMINATION – Under NEW SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 28 G (4) of the Chartered Accountants Regulations, 1988.]

Group-I : 30th July 2020, 2nd, 4th & 6th August 2020
Group-II: 8th, 10th, 13th & 16th August 2020

FINAL COURSE EXAMINATION - Under OLD SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 31 (ii) of the Chartered Accountants Regulations, 1988.]

Group -I : 29th, 31st July 2020, 3rd & 5th August 2020
Group -II: 7th, 9th, 11th & 14th August 2020

FINAL COURSE EXAMINATION - Under NEW SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 31 (iv) of the Chartered Accountants Regulations, 1988.]

Group -I: 29th, 31st July 2020, 3rd & 5th August 2020
Group -II: 7th, 9th, 11th & 14th August 2020



May, 2020

**INTERNATIONAL TRADE LAWS AND WORLD TRADE ORGANISATION
(ITL & WTO), Part I EXAMINATION**

Group A	30th July 2020 & 2nd August 2020
Group B	4th & 6th August 2020

INTERNATIONAL TAXATION – ASSESSMENT TEST (INTT – AT)

7th & 9th August 2020
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It may be emphasized that there would be no change in the examination schedule in the event of any day of the examination schedule being declared a Public Holiday by the Central Government or any State Government / Local Holiday.

Candidates may note that two of the papers viz. Paper(s) 3 & 4 of Foundation Examination are of 2 hours duration. Similarly, Elective Paper - 6 of Final Examination (under New Scheme) is of 4 hours. However, all other examinations are of 3 hours duration, and the examination wise timing(s) are given below:

Examination	Paper(s)	Exam. Timings (IST)	Duration
Foundation	Paper 1 & 2	2 PM to 5 PM	3 Hours
	Paper 3 & 4*	2 PM to 4 PM	2 Hours
Intermediate (IPC)	All Papers	2 PM to 5 PM	3 Hours
Intermediate (New Scheme)	All Papers	2 PM to 5 PM	3 Hours
Final (Old Scheme)	All Papers	2 PM to 5 PM	3 Hours
Final (New Scheme)	Paper 1 to 5 & Paper 7 & 8.	2 PM to 5 PM	3 Hours
	Paper 6 (Elective)	2 PM to 6 PM	4 Hours
Post Qualification Course Examinations i.e. (ITL & WTO), Part I and (INTT – AT)	ALL	2 PM to 5 PM	3 Hours

*In Paper 3 and 4 of Foundation Examination and all papers of Post Qualification Course Examinations there will not be any advance reading time, whereas in all other papers / exams mentioned above, an advance reading time of 15 minutes will be given from 1.45 PM (IST) to 2 PM (IST).

Foundation Course Examination is to be held along with Final Group -II Examinations on 7th, 9th, 11th & 14th August 2020 and the Post Qualification Course Examination i.e. INTT - AT is to be held along with Final Group - II Examination on 7th & 9th August 2020, whereas ITL & WTO examination is to be held along with 4 papers, Group - I of Intermediate (IPC) / Intermediate Examinations.

(S. K. Garg)
Additional Secretary (Examinations)

**GST UPDATE****Compiled by CA. SATISH SARAF**

S. No	Notification No	Issued under	Date of Issue	Brief particulars
01	30/2020	Central Tax	03-04-2020	Notifying to amend CGST Rules (Fourth Amendment) in order to allow opting Composition Scheme for FY 2020-21 till 30.06.2020 and to allow cumulative application of condition in rule 36(4).
02	31/2020	Central Tax	03-04-2020	Notifying to provide relief by conditional lowering of interest rate for tax periods of February, 2020 to April, 2020
03	32/2020	Central Tax	03-04-2020	Notifying to provide relief by conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to April, 2020.
04	33/2020	Central Tax	03-04-2020	Notifying to provide relief by conditional waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods of February, 2020 to April, 2020
05	34/2020	Central Tax	03-04-2020	Notifying to extend due date of furnishing FORM GST CMP-08 for the quarter ending March, 2020 till 07.07.2020 and filing FORM GSTR-4 for FY 2020-21 till 15.07.2020
06	35/2020	Central Tax	03-04-2020	Notifying to extend due date of compliance which falls during the period from "20.03.2020 to 29.06.2020" till 30.06.2020 and to extend validity of e-way bills.
07	36/2020	Central Tax	03-04-2020	Notifying to extend due date for furnishing FORM GSTR-3B for supply made in the month of May, 2020.
08	03/2020	Integrated Tax	08-04-2020	Notifying to provide relief by conditional lowering of interest rate for tax periods of February, 2020 to April, 2020



Survey, Search and Seizure Update

Compiled by CA. Hari Agarwal

**1. Principal Commissioner of Income-tax, Central-4 v. Dhananjay International Ltd.
[2020] 114 taxmann.com 351 (SC)**

Section 68, read with section 153C of the Income-tax Act, 1961 - Cash credit (Share Capital) - Assessment of any other person (Scope of) - In appellate proceedings, Tribunal deleted addition made in case of assessee under section 68 on account of share application money in assessment under section 153C, read with section 143(3) on ground that during search, no incriminating material was found to support such addition - High Court upheld order passed by Tribunal - Whether, on facts, SLP filed against order of High Court was to be granted - Held, yes [Para 2] [In favour of revenue]

**2. Commissioner of Income-tax v. Orchid Industries (P.) Ltd.
[2020] 116 taxmann.com 113 (SC)**

Section 68 of the Income-tax Act, 1961 - Cash credit (Share application money) - High Court by impugned order held that where assessee had received share application money and produced on record documents to establish genuineness of parties such as PAN of all creditors along with confirmation, their bank statements showing payment of share application money, merely because those persons had not appeared before Assessing Officer would not negate case of assessee so as to invoke section 68 - Whether special leave petition filed against impugned order was to be dismissed as withdrawn due to low tax effect - Held, yes [Para 6] [In favour of assessee]

Satya Narayan Choudhary & ANR. vs. Assistant Commissioner of Income Tax & ANR.(2020) 58 CCH 0364 JodhTrib

Income from undisclosed sources—Unexplained money—Income declared in return—Assessee, engaged in business of real estate, earning income from business, rental income and income from other sources—Search operation was done, wherein statement was recorded by search party—Post search assessment, AO treated portion of income as income from other sources u/s 69A and taxed it at higher rate u/s 115BBE alleging it to be unexplained money—CIT(A) confirmed small portion of income as undisclosed income—Held provisions of Section 69 or 69A were not applicable as income was in



nature of business income as assessee was duly engaged in business of real estate only—Provisions of section 69 or 69A are applicable in case of unrecorded transaction or investment, whose nature and source is not explained—CIT(A) did not appreciate submission made by assessee, which established that there was no case of any unexplained investment, money or income, as nature and source of income was reflected and explained in ITR filed, Balance sheet and profit & loss account, itself, therefore, question of any income from any undisclosed source does not arise—AO was directed to treat income as income from business

3. [New Delhi Television Ltd vs. DCIT \(Supreme Court\)](#)(2020) 107 CCH 0399 ISCC

S. 147/ 148 Reopening: (i) Merely because the original assessment is a detailed one, the powers of the AO to reopen u/s 147 is not affected, (ii) Information which comes to the notice of the AO during proceedings for subsequent AYs can definitely form tangible material to reopen the assessment, (iii) As regards "full & true disclosure of material facts", the assessee has the duty to disclose the "primary facts". It is not required to disclose the "secondary facts". The assessee is also not required to give any assistance to the AO by disclosure of other facts. It is for the AO to decide what inference should be drawn from the facts, (iv) If the AO intends to rely upon the second Proviso to s. 148 for the extended period of 16 years limitation, the same should be stated either in the notice or in the reasons in support of the notice. It cannot be done in the order rejecting the objections or at a later stage (All imp judgements considered)

In our view the assessee disclosed all the primary facts necessary for assessment of its case to the assessing officer. What the revenue urges is that the assessee did not make a full and true disclosure of certain other facts. We are of the view that the assessee had disclosed all primary facts before the assessing officer and it was not required to give any further assistance to the assessing officer by disclosure of other facts. It was for the assessing officer at this stage to decide what inference should be drawn from the facts of the case. In the present case the assessing officer on the basis of the facts disclosed to him did not doubt the genuineness of the transaction set up by the assessee. This the assessing officer could have done even at that stage on the basis of the facts which he already knew. The other facts relied upon by the revenue are the proceedings before the DRP and facts subsequent to the assessment order, and we have already dealt with the same while deciding Issue No.1. However, that cannot lead to the conclusion that there is nondisclosure of true and material facts by the assessee



4. Commissioner of Income-tax (Central-1) v. Aquatic Remedies (P.) Ltd.

[2020] 113 taxmann.com 451 (SC)

Section [151](#) of the Income-tax Act, 1961 - Income escaping assessment - Sanction for issue of notice (Sanctioning authority) - Assessment year 2004-05 - High Court by impugned order held that since in terms of section 151(2), sanction to issue notice under section 148 has to be issued by Additional Commissioner, reopening of assessment with approval of Commissioner was unsustainable - Whether special leave petition filed against impugned order was to be dismissed - Held, yes [Para 9] [In favour of assessee]

5. Padam Chand Pungliya v. Assistant Commissioner of Income-tax, Central Circle-1, Jaipur [2020] 113 taxmann.com 446 (Jaipur - Trib.)

Section [271AAB](#), read with section [69C](#), of the Income-tax Act, 1961 - Penalty - Where search has been initiated - Assessment year 2014-15 - Whether disclosure of additional income in statement recorded under section 132(4) itself is not sufficient to levy penalty under section 271AAB until and unless income so disclosed by assessee falls in definition of undisclosed income defined in Explanation to section 271AAB(1) - Held, yes - A search was conducted in case of RG group - Assessee was also one of members of this group - In course of search, certain material by way of loose sheets were found and seized - Statement of assessee was recorded under section 132(4) in which he disclosed certain additional income by way of expenditure on house construction, stock jewellery and debtors/advances - Assessing Officer completed assessment under section 143(3) read section 153(B)(1)(b) and levied penalty under section 271AAB on basis of loose sheets found and statement of assessee - Assessee contended that he had surrendered income just to buy peace and avoid unnecessary litigation and there was no iota of evidence that surrendered income was undisclosed income of assessee - It was noted that from entries in alleged seized material, it was found that most of them were unrealistic and these were not entries representing real and actual transactions - Though admission on part of assessee was a relevant evidence, however, when entries/notings in loose papers were apparently not representing real transactions then it was incumbent upon department to find out and establish existence of these assets in possession of assessee - In absence of such efforts and even any question put to assessee regarding existence of these assets, these entries alone would not ipso facto constitute undisclosed income of assessee - Whether, on facts, impugned penalty levied by Assessing Officer under section 271AAB upon assessee was to be deleted - Held, yes [Paras 8 and 12] [In favour of assessee]



Taxation of dividends after the amendments made by the Finance Act, 2020

**Compiled by CA. Rajendra Prasad Talluri
CA. Sravan Sankaramanchi
CA. Abhiroop Bhargav**

The Fin Act, 2020 made sweeping amendments in relation to the taxation of dividends. It had moved back to the old system of taxation. i.e Dividends shall be taxable in the hands of the shareholders. In this Article, the intricacies involved in taxation of dividend are discussed in detail.

- 1. Dividends are taxable in the hands of the recipients:** After the amendment made by the Finance Act, 2020, dividends are generally taxable in the hands of the recipients.

However, where the DDT has been paid U/S 115-O, such dividend is exempt in the hands of the recipients. In this case, if the dividend income is chargeable U/S 115BBDA, such tax should be paid by the recipient.

It is to be noted that the provisions of Sec 115-O are applicable to the dividends declared, distributed or paid on or before 31st March 2020. Likewise, the provisions of Sec 115BBDA are applicable to the dividends declared, distributed or paid on or before 31st March 2020.

- 2. Allowability of expenditure in relation to the dividend income:** Sec 57(i) deals with deduction against 'Dividends' and 'Interest on securities'. A proviso had been inserted in Sec 57(i) to provide that interest expenditure shall alone be allowed against the dividend income. It is also provided that the interest expenditure shall not exceed 20% of the dividend income included in the total income. Thus, where in a particular previous year, dividend is not earned, then the language used in the section suggests that no deduction shall be allowed towards interest expenditure.
- 3. Deduction U/S 80M against the 'Dividend Income':** Deduction U/S 80M is available subject to the following propositions.

The assessee should be a domestic company;

Its Gross Total Income includes dividend from (a) Another domestic company; (b) A foreign company; or (c) A business Trust;

It should 'distribute' the dividend to its shareholders at least one month prior to the due date for filing return of income;

If all the above conditions are satisfied, then lower of {(i) Dividend received by it; and (ii) Dividend distributed by it} shall be allowed as a deduction U/S 80M.



Note: In order to avoid double deduction, it is provided that once a deduction had been allowed to the dividend distributed in a previous year, then deduction shall not be allowed w.r.t the same dividend distributed in any other previous year.

It may further be noted that the benefit of Sec 80M is available against the dividend on preference shares as well as the dividend on equity shares.

- 4. Allowability of foreign taxes withheld in other countries in the context of Sec 80-M:** In the case of outbound investments made by the Indian entities, the challenge would be the 'Allowability of taxes withheld outside India' particularly in a case where the Indian entity is claiming the deduction U/S 80-M against such dividend income.

In such a case, one needs to focus on the language used in the Treaty. Some treaties use the terms 'Income Chargeable to tax' while some other treaties use the terms 'income subjected to tax'. Apart from this difference, one needs to examine whether there is any other restriction in the Treaty with regard to the allowability of the tax credit.

Comparative table of Relevant Articles dealing with Tax Credit from India-USA Treaty; India – Canada Treaty and India – Netherlands Treaty.

India – USA Treaty	India – Canada Treaty	India – Netherlands Treaty
Para 25(2)(a): Where a resident of India derives income which, in accordance with the provisions of this Convention, may be taxed in the United States , India shall allow as a deduction from the tax on the income of that resident an amount equal to the income-tax paid in the United States, whether directly or by deduction. Such deduction shall not, however, exceed that part of the income-tax (as computed before the deduction is given) which is attributable to the income which may be taxed in the United States.	Para 23(3)(a): The amount of Canadian tax paid, under the laws of Canada and in accordance with the provisions of the Agreement, whether directly or by deduction, by a resident of India, in respect of income from sources within Canada which has been subjected to tax both in India and Canada shall be allowed as a credit against the Indian tax payable in respect of such income but in an amount not exceeding that proportion of Indian tax which such income bears to the entire income chargeable to Indian tax.	Para 23(4): Where a resident of India derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Netherlands , India shall allow as a deduction from the tax on the income of that resident an amount equal to the income-tax paid in the Netherlands, whether directly or by deduction; and as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the Netherlands. Such deduction in either case shall not, however, exceed that part of the income-tax or capital tax (as computed before the deduction is given) which is attributable, as the case may be, to the income or the capital which may be taxed



India – USA Treaty	India – Canada Treaty	India – Netherlands Treaty
		in the Netherlands. Further, where such resident is a company by which sur tax is payable in India, the deduction in respect of income-tax paid in the Netherlands shall be allowed in the first instance from income-tax payable by the company in India and as to the balance, if any, from sur tax payable by it in India:

Analysis: While the India-USA and India-Netherlands Treaties use the language 'may be taxed in the USA / Netherlands', the India – Canada Treaty uses the language 'which has been subjected to tax both in India and Canada'.

The Karnataka High Court in '**Wipro Ltd Vs DCIT**' [2015][62 Taxmann.com 26] and the Mumbai ITAT in '**TCS Vs ACIT**' [2019] [111 Taxmann.com 42] held that where the language used is similar to that of 'India-USA', then the foreign taxes paid in USA / Other countries is allowed as deduction in India even though the relevant income is exempt from tax. Thus, based on this reasoning, a view is possible that even though the Indian entity is claiming 80M deduction with regard to the dividend income received from its outbound investments, yet tax credit is allowed in India with regard to the taxes paid outside India.

On the other hand, where the language used is similar to that of India – Canada Treaty, where the Indian entity claims deduction U/S 80M 'thereby making the foreign dividend income subjected to tax in India to Nil' with regard to the dividend income received from outbound investments, tax credit is not allowed in India. Conversely, where the dividend income received from its Subsidiary in Canada is say Rs 100 Crores and the Indian entity is able to claim deduction U/S 80M only for Rs 40 Crores, thereby making the net dividend income taxable in India to Rs 60 Crores, then tax credit is allowed w.r.t to the Rs 60 Crores.

Readers may note that had the dividend been received from Netherlands / USA, tax credit is allowed w.r.t Rs 100 Crores whether the Indian entity claimed deduction U/S 80M to the full extent of Rs 100 Crores or to the extent of Rs 40 Crores. This view is based on the aforesaid two judgements.

Following examples will help one to understand the tax implications in the hands of the company and in the hands of the shareholders.



Eg # 1: Taxability of 'Interim Dividend' in a situation where the Financial Year ends on 31st March 2020.

Taxability of Interim Dividend [Assuming the Financial Year ends on 31 st March]						
Date of proposal by the Board of directors	Date of declaration of dividend	Date on which the dividend is unconditionally made available to the share holders	Applicability of Sec 115-O in the hands of the company	Taxability in the hands of the share holders under normal provisions	Taxability in the hands of the share holders U/S 115BBDA	Remarks
25 th March 2020	28 th March 2020	31 st March 2020	Yes	Exempt	Yes	Note # 1
25 th March 2020	28 th March 2020	2 nd April 2020	Yes	Exempt	Yes	Note # 2
25 th March 2020	2 nd April 2020	5 th April 2020	No	Taxable	No	Note # 3
2 nd April 2020	5 th April 2020	7 th April 2020	No	Taxable	No	

Remarks:

Note # 1: As the company 'Declared' dividend on or before 31st March 2020, it needs to pay DDT U/S 115-O; As it is charged to tax U/S 115-O, it is 'Exempt' in the hands of the shareholders U/S 10(34). However, in the case of specified resident assesses whose total income includes aggregate dividend income [excluding dividends covered U/S 2(22)(e)] from domestic companies of more than Rs 10 lakhs, they need to pay tax U/S 115BBDA. Such dividend income is taxable in the previous year in which it is unconditionally made available to the shareholders. i.e P Y 2019-20.

Note # 2: As the company 'Declared' dividend on or before 31st March 2020, it needs to pay DDT U/S 115-O; As it is charged to tax U/S 115-O, it is 'Exempt' in the hands of the shareholders U/S 10(34). However, in the case of specified resident assesses whose total income includes aggregate dividend income [excluding dividends covered U/S 2(22)(e)] from domestic companies of more than Rs 10 lakhs, they need to pay tax U/S 115BBDA. Such dividend income is taxable in the previous year in which it is unconditionally made available to the shareholders. i.e P Y 2020-21.



Note # 3: As the company 'Declared' dividend after 31st March 2020, it need not pay DDT U/S 115-O; As it is not charged to tax U/S 115-O, it is 'Taxable' in the hands of the shareholders under the normal provisions of the Act. Such dividend income is taxable in the previous year in which it is unconditionally made available to the shareholders. i.e PY 2020-21. However, the provisions of Sec 115BBDA are not applicable as the company declared dividend after 31st March 2020.

Eg # 2: Taxability of 'Final Dividend' in a situation where the Accounting Year as well as the Previous Year ends on 31st March 2020.

Taxability of Final Dividend					
Date of proposal by the Board of directors	Date of declaration of dividend	Applicability of Sec 115-O in the hands of the company	Taxability in the hands of the share holders under normal provisions	Taxability in the hands of the share holders U/S 115BBDA	Remarks
25 th April 2020	1 st June 2020	No	Yes	No	Note

Note : As the company 'Declared' dividend after 31st March 2020, it need not pay DDT U/S 115-O; As it is not charged to tax U/S 115-O, it is 'Taxable' in the hands of the shareholders under the normal provisions of the Act. Such dividend income is taxable in the previous year in which it is declared / distributed / paid to the shareholders. i.e PY 2020-21. However, the provisions of Sec 115BBDA are not applicable as the company declared dividend after 31st March 2020.

Eg # 3: Taxability of 'Final Dividend' in a situation where the Accounting Year ends on 31st Dec 2019 but the Previous Year ends on 31st March 2020.

Taxability of Final Dividend					
Date of proposal by the Board of Directors	Date of declaration of dividend	Applicability of Sec 115-O in the hands of the company	Taxability in the hands of the share holders under normal provisions	Taxability in the hands of the share holders U/S 115BBDA	Remarks
1 st Feb 2020	15 th March 2020	Yes	Exempt	Yes	Note # 1
15 th March 2020	15 th April 2020	No	Yes	No	



15 th April 2020	15 th May 2020	No	Yes	No	Note # 2
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Remarks:

Note # 1: As the company 'Declared' dividend on or before 31st March 2020, it needs to pay DDT U/S 115-O; As it is charged to tax U/S 115-O, it is 'Exempt' in the hands of the shareholders U/S 10(34). However, in the case of specified resident assesses whose total income includes aggregate dividend income [excluding dividends covered U/S 2(22)(e)] from domestic companies of more than Rs 10 lakhs, they need to pay tax U/S 115BBDA.

Such dividend income is taxable in the previous year in which it declared / distributed / paid to the shareholders as the case may be i.e PY 2019-20.

Note # 2: As the company 'Declared' dividend after 31st March 2020, it need not pay DDT U/S 115-O; As it is not charged to tax U/S 115-O, it is 'Taxable' in the hands of the shareholders under the normal provisions of the Act. Such dividend income is taxable in the previous year in which it is declared / distributed / paid to the shareholders. i.e PY 2020-21. However, the provisions of Sec 115BBDA are not applicable as the company declared dividend after 31st March 2020.

Eg # 4: X Ltd wants to declare dividend of say 50 Crores to its shareholders after 1st April 2020. It had received Rs.25 Crores from its US Subsidiary on 3rd April 2020 in which it had 78% share capital entitling voting rights. The US Subsidiary had declared such dividend in March 2020.

It had also received Rs.15 Crores from a Canadian company on 24th April 2020 in which it had 8% share capital. The Canadian Subsidiary had declared such dividend in April 2020.

Further, it had received Rs 40 Crores from its Indian Subsidiary company on 4th May 2020 which dividend was declared post 1st April 2020.

It had also received Rs 10 Crores on 2nd April 2020 from another Indian Subsidiary company on which the Indian Subsidiary had paid DDT as per the erstwhile provisions as the dividend was declared on 25th March 2020. Assume that the assessee incurred 'Interest expenditure' of Rs 14 Crores towards earning the dividend incomes during the FY 2020-21.

Let us examine the tax implications in the hands of X Ltd for FY2019-20 and FY2020-21.

Particulars	Remarks	Rs
Tax implications for FY 2019-20		
Dividend received from US Subsidiary on 3 rd April 2020: Rs 25 Crores which got declared by the US S.Co in March 2020.	Note # 1	25 Crores



Dividend received from Indian S. Co on 2 th April 2020: Rs 10 Crores.	Note # 2	Exempt
Tax implications for FY 2020-21		
Dividend received from Canadian company on 24 th April 2020: Rs 15 Crores which got declared by the Canadian Co in April 2020.	Note # 3	15 Crores
Dividend received from Indian S. Co on 4 th May 2020: Rs 40 Crores	Note # 4	40 Crores
Total of dividend income		55 Crores
Less: Interest expenditure being lower of Actual interest : Rs 14 Crores; and 20% of dividend i.e 20% of Rs 55 Crores:		(11 Crores)
Net dividend income includible in the GTI		44 Crores
Less: Deduction U/S 80M being lower of Dividend distributed by the assessee: Rs 50 Crores; and Dividend received by the assessee which got included in the GTI: 44 Crores.		(44 Crores)
Taxable dividend income		Nil

Note # 1: As the dividend got declared during FY 19-20, it shall be taxable for the PY 2019-20. It shall be taxable as per the provisions of Sec 115BBD i.e at a special rate of 15%.

Note # 2: Since it is received from Indian S. Co, the provisions of Sec 115BBD are not applicable. As the Indian S. Co had paid DDT, such dividend income is exempt in the hands of the assessee U/S 10(34). Further, as the assessee is a resident domestic company, the provisions of Sec 115BBDA are not applicable. The provisions of Sec 14A shall be triggered as there is an exempt dividend income.

Note # 3: As the assessee held less than 26% of the nominal value of the share capital of the Canadian company, the provisions of Sec 115BBD are not applicable. Hence, it is taxable at the normal rates.

Note # 4: Since it is received from Indian S. Co, the provisions of Sec 115BBD are not applicable. As the assessee is a resident domestic company, the provisions of Sec 115BBDA are not applicable. Hence, it is taxable at the normal rates.

Comparison of option of 'Dividend' with that of 'Buy Back'

As per the provisions of Sec 115QA(1), the domestic company resorting to buy back is liable to pay additional income tax @ 20% on the distributed income. Consequently, it is exempt in the hands of the recipients U/S 10(34A).



Thus, while dividend income is taxable in the hands of the shareholders at the relevant rates applicable to the shareholders, the distributed income on account of buyback is taxable in the hands of the domestic company resorting to buy back at the rate of 20%.

The decision of buy back vis-à-vis distribution of dividend assumes importance in a case where there are foreign shareholders particularly in the context of inbound investments. It is so because, the rate of tax applicable to dividends as per many treaties is 10%. Thus, so long as the effective tax rate of buy back is lower than 10%, it would be suggestible to resort to buy back. Else, declaration of dividend would be the suggested alternative.

Eg # 5: Example from the perspective of India – Netherlands Treaty:

X Ltd is a domestic company which is a 100% S. Co of a Netherlands based company. The distributed income calculated as per the provisions of Sec 115QA is say, Rs 100 Crores. [Amount tendered in buyback (Rs 300 Crores) – Amount at which it subscribed to the share capital of the subsidiary company (Rs 200 Crores)];

In this case, the tax on buy back would be Rs 100 Crores × 20%: Rs 20 Crores.

The relevant surcharge would be attracted at the rate of 12% and the HEC would be attracted at the rate of 4%. Hence the effective tax outflow would be : Rs 20 Crores × 112% × 104%: Rs 23.296 Crores.

Effective tax rate = (Rs 23.296 Crores ÷ Rs 300 Crores) × 100 = 7.7653%

Rs 300 Crores appearing in the denominator represents the amount paid to the parent company for buy back.

In this case, the buyback option is beneficial as the effective tax rate on account of buy back is 7.7653% whereas the relevant tax rate for dividend is 10% as per the Treaty.

[Note: In the case of buy back the principal tax goes to the Indian government whereas in the case of dividend distribution, the withholding taxes goes to the Indian government.

Evaluation of buyback vis-à-vis dividend had been considered in the above case from the overall tax outflow perspective but not from the perspective of the shareholders or from the perspective of company.]

Disclaimer: The views expressed in this Article are the personal views of the authors.