

HVJ
COMMUNIQUE

Oct-2023

120th Edition



HAPPY
DUSSEHRA

*202, 1st Floor, JJ Residency 372/90, 18th Cross, M.C.
Layout, Vijayanagar, Bangalore – 560040*

Mobile No: 7353444222 E Mail: info1@hvj.co.in

Web: www.hvj.co.in

Dear Professional Colleagues,

“All our dreams can come true, if we have the courage to pursue them.”

-Walt Disney

One day or day one. You decide.

In order to meet expectations from people who are external to the organization, we need to build relationships in which people are aware and trust us for the proper and effective services that we are providing. We at HVJ work on building trust of our clients by providing best quality services, we make consistent effort and work passionately to serve our clients' needs and complete the work on time effectively and efficiently.

We are delighted to bring you our 120th edition of HVJ Communique which briefs about various amendments/circulars/clarifications in Goods and Service Tax, Income Tax, RBI and Companies Act 2013. We are always on our forefront to apprise our clients, associates as well as those seeking knowledge with recent updates on various laws and regulations. We have consolidated various regulatory announcements and amendments by respective regulators, along with our analysis, for the month of October 2023

Help us improve!

We hope you find this Journal informative and of continued interest. We welcome your feedback at Info1@hvj.co.in

With warm regards



CA Sudheer Javali
Partner
B. Com, FCA, DISA

THE COMPENDIUM

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• Compliance Calendar – Oct 2023





Sl. No.	Particulars	Due Date
Compliance Calendar for GST		
1	GSTR-1 (Monthly) for September 2023	11-10-2023
2	GSTR-1 (IFF) for September 2023 (Optional)	13-10-2023
3	GSTR-3B (Monthly) for September 2023	20-10-2023
4	GSTR -5 for September 2023 (Non-Resident Taxable person)	20-10-2023
5	GSTR - 5A for September 2023 (OIDAR Service provider)	20-10-2023
6	GSTR-7 (Monthly) for September 2023	10-10-2023
7	GSTR-8 (Monthly) for September 2023	10-10-2023
8	GSTR-6 (Monthly) for September 2023	13-10-2023
9	CMP-08 for July-Sept 2023 (Composition)	18-10-2023
Compliance Calendar for ESI, PF & PT Payments		
1	PF Payment for the month of September 2023	15-10-2023
2	ESI Payment for the month of September 2023	15-10-2023
3	Professional Tax Due Date September 2023	20-10-2023
Compliance Calendar for Income Tax Act, 1961		
1	TDS Payment for September 2023	07-10-2023
2	TCS Payment for September 2023	07-10-2023
3	Quarterly TDS Statement Filing	31-10-2023
4	Quarterly TCS Certificate	15-10-2023
5	Furnishing of Audit report in Form no. 10B/10BB by a fund or trust or institution or any university or other educational institution or any hospital or other medical institution. Note: the due date for furnishing the Audit report in Form no. 10B/10BB has been extended from September 30, 2023 to October 31, 2023 vide Circular no. 16/2023, dated 18-09-2023	31-10-2023
6	Due date for filing of return of income for the assessment year 2023-24 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply.	31-10-2023
7	Audit report under section 44AB for the assessment year 2023-24 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E.	31-10-2023
8	Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.	31-10-2023

Compliance Calendar Companies Act, 2013



1	Form ADT-1 - Appointment of Auditor - 15 days from the conclusion of the AGM	15-10-2023
2	AOC 4 - Filing Annual Accounts	29-10-2023
3	MCA LLP Form 8 - Statement of Accounts of LLP	30-10-2023

• Fluctuations Summary

• Foreign Exchange Fluctuation

Currency	As on 31 st Aug 2023	As on 30 th Sep 2023	Fluctuation
US	82.71	83.178	
GBP	104.87	101.45	
EURO	89.71	88.005	
JPY	0.56	0.55	

• Stock Market Fluctuation

Stock Exchange	As on 31 st Aug 2023	As on 30 th Sep 2023	Fluctuation
Sensex	64,831.41	65,828.41	
Nifty	19,253.80	19,518.90	

Statutory Updates

Goods and Services Tax Act, 2017

1. Introducing Electronic Credit Reversal and Reclaimed statement

Vide Notification No. 14/2022 - Central Tax dated 05th July, 2022 (read with circular 170/02/2022-GST, Dated 6th July,2022), the Government introduced certain changes in Table 4 of Form GSTR-3B so as to enable the taxpayers in reporting correct information regarding ITC availed, ITC reversal, ITC re-claimed and ineligible ITC. The re-claimable ITC earlier reversed in Table 4(B)2 may be subsequently claimed in Table 4(A)5 on fulfilment of necessary conditions. Such reclaimed ITC in Table 4(A)5 also needs to be explicitly reported in Table 4D(1)..

In order to facilitate the taxpayers in correct and accurate reporting of ITC reversal and reclaim thereof and to avoid clerical mistakes, a new ledger namely Electronic Credit and Re-claimed Statement is being introduced on the GST portal. This statement will help the taxpayers in tracking of their ITC that has been reversed in Table 4B(2) and thereafter re-claimed in Table 4D(1) and 4A(5) for each return period, starting from August return period

https://tutorial.gst.gov.in/downloads/news/itc_pending_ledger.pdf

2. Time limit for Reporting Invoices on the IRP Portal:

In a move to streamline and regulate the reporting of invoices on e-invoice portals, the GST Authority has introduced a significant change that directly impacts taxpayers, especially those with an Aggregate Annual Turnover (AATO) of equal to or greater than 100 crores.

- Please note that this restriction will apply to the all-document types (Invoices/Credit note/Debit note) for which IRN is to be generated.
- For example, if an invoice has a date of November 1, 2023, it cannot be reported after November 30, 2023. The validation built into the invoice registration portals will disallow the user from reporting the invoice after the 30 days window. Hence, it is essential for taxpayers to ensure that they report the invoice within the 30 days window provided by the new time limit.
- It is further to clarify that there will be no such reporting restriction on taxpayers with AATO less than 100 crores, as of now.
- In order to provide sufficient time for taxpayers to comply with this requirement, which may require changes to your systems, it is proposed to implement it from 1st November 2023 onwards.

<https://www.gst.gov.in/newsandupdates/read/602>

3. Geocoding Functionality for the Additional Place of Business

GSTN is pleased to inform that the geocoding functionality for the "Additional Place of Business" address is now active across all States and Union Territories. This builds upon the geocoding functionality earlier implemented for the principal place of business, operational since February 2023.

To date, over 2.05 crore addresses have been geocoded for both principal and additional places of business by GSTN. Moreover, since March 2022, all new addresses are geocoded at the point of registration, ensuring consistent accuracy and standardization from the beginning.

Brief guide on how to utilize this feature:

- Access: Navigate to Services>>Registration>>Geocoding Business Addresses tab on the FO portal to find this functionality.
- Usage: The system will display a system-generated geocoded address. You have the option to accept this or modify it as needed. If a system-generated address is not available, you can input the geocoded address directly.
- Viewing: Saved geocoded address details can be found under the "Geocoded Places of Business" tab. After logging in, go to My Profile >> Geocoded Places of Business.
- One-time Submission: This is a one-time activity, and post-submission, address revisions are not permitted. Taxpayers who have already geocoded their addresses through new registration or core amendment would not be required to do this as on the GST portal their address will be shown as geocoded. Remember, changes to the address on your registration certificate can only be made through the core amendment process. This geocoding feature will not affect previously saved addresses.
- Eligibility: This feature is accessible to normal, composition, SEZ units, SEZ developers, ISD and casual taxpayers whether they are active, canceled, or suspended.

<https://www.gst.gov.in/newsandupdates/read/603>

4. Notification No. 51/2023-Central Tax, dated 29-09-2023

The CBIC has issued notification under Section 15(5) to notify that the valuation of supply of online gaming, online money gaming and actionable claims in casino will be determined in a notified manner. In this regard, Rule 31B and Rule 31C have been inserted under the CGST Rules to provide the manner of determining the value of supply of online gaming (including online money gaming) and supply of actionable claims in casino respectively. The rules will be made effective from 01-10-2023.

Section 15(5) empowers the Government to notify certain supplies, the valuation of which shall be determined in a prescribed manner. The same would be notified based on the recommendations of the Council. In this regard, the Government has now issued a notification under Section 15(5) of the CGST Act to notify that the valuation of supply of online gaming, online money gaming and actionable claims in casino would be determined in a prescribed manner.

Further, Rule 31B and Rule 31C has been inserted under the CGST Rules to prescribe the manner of valuation of supplies relating to online gaming, online money gaming and casinos. Notably, the said rules were earlier inserted vide Notification No. 45/2023-Central Tax, dated 06-09-2023. However, the given notification has now been superseded vide Notification No. 51/2023-Central Tax, dated 29-09-2023. The given rules have been inserted again but with effect from 01-10-2023.

Rule 31B. Value of supply in case of online gaming including online money gaming

Rule 31C. Value of supply of actionable claims in case of casino

<https://taxinformation.cbic.gov.in/view-pdf/1009873/ENG/Notifications>

✓ *Income Tax Act, 1961*

1. Extension of timelines for filing of Form 10B/10BB and Form ITR-7 for the Assessment Year 2023-24 – reg.

[Circular No. 16/2023]

https://incometaxindia.gov.in/communications/circular/circular_no_16_2023.pdf

On consideration of difficulties reported by the taxpayers and other stakeholders, the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Income-tax Act, 1961 (Act), provides relaxation in respect of following compliances:

- ❖ The due date of furnishing Audit report under clause (b) of the tenth proviso to clause (23C) of section 10 and sub-clause (ii) of clause (b) of sub-section (1) of section 12A of the Income-tax Act, 1961, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution in Form 10B/Form 10BB for the Previous Year 2022-23, which is 30th September, 2023, is hereby extended to 31st October, 2023.
- ❖ The due date of furnishing of Return of Income in Form ITR-7 for the Assessment Year 2023-24 in the case of assessee referred to in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, which is 31st October, 2023, is hereby extended to 30th November, 2023.

2. NBFC Classification for Income Tax

[Notification No. 79/2023/ F. No.370142/31/2023-TPL]

<https://incometaxindia.gov.in/communications/notification/notification-79-2023.pdf>

This notification pertains to the classification of non-banking financial companies (NBFCs) for the purpose of income tax assessment.

In exercise of the powers conferred by section 43D of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the following classes of non-banking financial companies (NBFCs), for the purpose of the said section, namely:-

- (a) all NBFCs classified in the Top Layer;
- (b) all NBFCs classified in the Upper Layer;
- (c) all NBFCs classified in the Middle Layer.

Explanation- The classification of NBFCs in the Top Layer, Upper Layer and Middle Layer shall be according to the Reserve Bank of India's guidelines contained in Circular DOR.CRE.REC. No.60/03.10.001/2021-22 dated October 22, 2021.

3. CBDT notifies Interest on Loan to NBFCs under Section 43B(da) of Income Tax Act

[Notification No. 80/2023/F. No.370142/31/2023-TPL]

<https://incometaxindia.gov.in/communications/notification/notification-80-2023.pdf>

Clause (da) of Section 43B provides that any interest payable on the loan taken from a Deposit-taking NBFC or a Systematically Important Non-deposit-taking NBFC shall be allowed as a deduction only when the payment is made.

Further, from the list of specified entities in Section 43D, only two classes of NBFCs are included: Deposit-taking NBFCs and Systemically Important Non-Deposit-taking NBFCs.

The Reserve Bank of India no longer follows such two classifications for NBFCs. Thus, the Finance Act 2023 substituted these two classes of NBFCs with such class of NBFCs as may be notified by the Central Government.

Now, the Central Board of Direct Taxes (CBDT) has notified the following classes of NBFCs for the purpose of these sections:

- a) all NBFCs classified in the Top Layer;
- b) all NBFCs classified in the Upper Layer; and
- c) all NBFCs classified in the Middle Layer.

4. SECTION 47(viiab) OF THE INCOME-TAX ACT, 1961 - TRANSACTIONS NOT REGARDS TRANSFER

In the said notification, in the first paragraph, -

(i) after clause (vi), the following clause shall be inserted, namely: -

“(vii) unit of investment trust;

(viii) unit of a scheme;

(ix) unit of a Exchange Traded Fund launched under International Financial Services Centres Authority (Fund Management) Regulations, 2022.”;

(ii) in the Explanation, after clause (c), the following clause shall be inserted, namely: -

“(d) “Investment Trust” shall have the meaning assigned to it in clause (d) of sub-regulation (1) of regulation 83 of

the International Financial Services Centres Authority (Fund Management) Regulations, 2022.

(e) “Scheme” shall have the meaning assigned to it in clause (ii) of sub-regulation (1) of regulation 2 of the

International Financial Services Centres Authority (Fund Management) Regulations, 2022.”.

2. This notification shall come into force with effect from the date of its publication in the Official Gazette.

<https://incometaxindia.gov.in/communications/notification/notification-71-2023.pdf>

RBI / FEMA

1.	RBI extends deadline to deposit/exchange Rs 2000 banknotes till October 7, 2023
	<p>The RBI has extended the current arrangement for depositing or exchanging of Rs 2000 banknotes till October 7, 2023. From Oct 8, 2023, the deposit/exchange will be stopped at bank branches. Further, individuals and entities can continue to exchange Rs 2000 banknotes at the 19 RBI Issue Offices up to a limit of Rs 20,000 at a time. Also, as per data received from banks, Rs 3.42 lakh crore has been received back leaving only Rs 0.14 lakh crore in circulation as on Sep 29, 2023.</p>
2.	Change in Public Holiday under Negotiable Instrument Act - Settlement of financial market transactions on September 29, 2023
	<p>The Government of Maharashtra has declared September 29, 2023 as a public holiday under Section 25 of the Negotiable Instruments Act, 1881. The public holiday on September 28, 2023 declared earlier has been cancelled.</p> <p>To ensure smooth functioning of the financial markets and non-disruptive settlement of transactions especially in view of the quarter / half year end, it has been decided, in public interest, to keep the Government securities market, foreign exchange market, money market and rupee interest rate derivatives market operational on September 29, 2023 in addition to being operational on September 28, 2023.</p> <p>Settlement of the auction of Government of India treasury bills conducted on September 27, 2023 will take place on September 29, 2023. The auction of Government of India Dated Securities scheduled on September 29, 2023 will now be conducted on September 28, 2023, with settlement on September 29, 2023. The underwriting auction for sale of Government Securities will also be conducted on September 28, 2023.</p> <p>The settlement of secondary market transactions in Government securities, foreign exchange market, money market and rupee interest rate derivatives market which were due on September 29, 2023 will continue to be on the same day i.e., September 29, 2023.</p> <p>The tenor for transactions of Standing Deposit Facility (SDF) and Marginal Standing Facility (MSF) operations under the Liquidity Adjustment Facility (LAF) for the period September 27-29, 2023</p>
3	Bank credit to personal loan jumps 30.8% in August 2023
	<p>Indian banks are going aggressive in their personal loan portfolio, with credit to the segment growing by 30.8 percent, compared to 19.4 percent on a year-on-year basis, the latest sectorial credit growth data with the Reserve Bank of India (RBI) showed.</p> <p>The total credit to the segment was Rs 47.70 lakh crore in August 2023, compared to Rs 36.47 lakh crore in August 2022.</p>

	<p>Credit to the sector from April 2023 to August 2023 grew from Rs 40.85 lakh crore to Rs 47.70 lakh crore, growing by 16.8 percent, compared to 7 percent in the corresponding period last year.</p> <p>Barring consumer durables, advances against fixed deposits and advances to individuals against shares, bonds, etc., saw a strong growth on a year-on-year (YoY) basis.</p>
4.	<p>Government plans to sell 50-year bond to cater to growing demand from insurance, pension funds</p>
	<p>The new bond adds to the 30-year and 40-year tenor debt sold, extending the nation's yield curve, according to a borrowing plan released by the Reserve Bank of India.</p> <p>The nation's burgeoning life insurance and pension fund industries, driven by an expanding middle class, are changing the landscape for India's \$1 trillion sovereign debt market. The sale reflects their growing heft and helps Prime Minister Narendra Modi's government reduce its reliance on purchases by banks to fund record borrowings.</p> <p>"Investor demand has been strong, supported by the expansion of the formal sector, with households allocating a higher share of financial savings in life insurance, pensions and provident funds," Gaura Sen Gupta, economist at IDFC FIRST Bank wrote in a note.</p> <p>The authorities are trying to increase the tenure of debt sold and expect yields to decline after India's inclusion in JPMorgan Chase & Co.'s emerging market index.</p> <p>The government will sell 300 billion rupees (\$3.6 billion) of the 50-year bond in the October to February period, which accounts for almost 5% of its total borrowings</p>

✓ *Companies Act, 2013*

In a recent circular dated September 25, 2023, the Ministry of Corporate Affairs (MCA) has made an important announcement concerning Annual General Meetings (AGMs) for the year 2024. This circular grants companies the authority to conduct their AGMs through Video Conference (VC) or Other Audio Visual Means (OAVM) as per Section 96 (1) of the Companies Act, 2013. However, it's essential to note that this circular primarily focuses on the mode of conducting AGMs and does not extend the statutory time for holding AGMs.

<https://www.mca.gov.in/content/mca/global/en/home.html>

• Knowledge Capsule

Clarification that holding of securities of subsidiary company is not a service under GST

Recommendation to clarify that mere holding of securities of a subsidiary company by a holding company cannot be treated as a supply of service and therefore, cannot be taxed under GST.

Notices have been issued by the GST department on the basis of the Scheme of Classification of Services provided in Notification No. 11/2017-Central Tax (Rate), dated 28-06-2017. The service code 997171 specifically provides for 'services of holding equity of subsidiary companies'. Accordingly, notices were issued in below cases:

- (a) When Indian holding company holds share capital in an Indian subsidiary company - Demand of GST under forward charge mechanism
- (b) When foreign holding company holds share capital in an Indian subsidiary company - Demand of GST under RCM on account of import of services

To determine the value of supply, authorities have adopted the valuation methods outlined in Rule 28 of the CGST Rules. The Department has valued such supplies either based on a risk-free return, which is equivalent to the interest rate on fixed deposits, or by adopting Earning Per Share as the taxable value of each share.

Recently, the Karnataka High Court stayed the adjudication of show cause notices issued by the GST Department proposing the levy of GST in such cases.

The GST Council has now recommended to remove the ambiguity surrounding this issue. It will be clarified that mere holding of securities of a subsidiary company by a holding company cannot be considered as a supply of services and, therefore, cannot be taxed under GST. This is a welcome move which will put the litigations to rest.

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Team HVJ**