

Covid 19: FAQs on Relaxations under Taxation Laws

In these unprecedented crucial times of the ongoing pandemic, the tax payers are facing multiple challenges in meeting the compliance requirements. To address such challenges, the Hon'ble Finance Minister announced certain relief measures in the press release dated 24.03.2020 to provide statutory and regulatory compliance relaxations to the tax payers in the wake of COVID-19 outbreak.

In light of the above, on 31.03.2020, **Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020** was promulgated to provide for extension of various time limits under the Taxation and other Laws. In this regard, where any time limits for statutory and regulatory compliances specified in or prescribed in or notified under the Specified Act falls during the period from 20.03.2020 to 29.06.2020 ("**Specified Period**"), such limits have been extended to 30.06.2020 or such other date after 30.06.2020 as Central Government may, be notification, specify in this behalf in certain cases.

In order to bring clarity regarding taxation compliance related aspects, we have attempted to address certain common queries by way of Frequently Asked Questions set out as under:

1. What is the scope of The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020?

Scope of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 ("**Ordinance, 2020**" in short) is to provide relaxation and extension for various time limits falling between the time frame of 20th March, 2020 to 29th June, 2020 in the following Acts ("**Specified Act**" for Short) to address the challenges faced by the tax payers in meeting the compliance related requirements:

- i. The Wealth-tax Act, 1957
- ii. The Income-tax Act, 1961 ("**IT Act**" for Short)
- iii. The Prohibition of Benami Property Transactions Act, 1988
- iv. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
- v. The Direct Tax Vivad se Vishwas Act, 2020 ("**DTVV Act**" for short)
- vi. Chapter VIII of of the Finance Act, 2016 relating to Equalization Levy
- vii. Chapter VII of the Finance Act, 2013 relating to Commodities Transaction Tax
- viii. Chapter VII of the Finance (No. 2) Act, 2004 relating to service tax

2. Whether any provision has been brought into effect to extend the time limit of filing of income-tax return for AY 2019-20?

As per section 139(4) of IT Act, income-tax return for F.Y. 2018-19 could have been belatedly filed on or before 31.03.2020. Now on account of extension of time limit provided by the Ordinance, 2020, belated income-tax return for the FY 2018-19 is allowed to be filed on or before 30.06.2020 or such further date if notified. Similarly, income tax returns for AY 2019-20 which could be revised by 31.03.2020 can now be revised till 30.06.2020 or such further date if notified. It is relevant to note that the Ordinance, 2020 does not provide for any amendment with respect to filing of income-tax return for financial year 2019-20.

3. Whether any relaxation or extension of time limit has been provided by the Ordinance, 2020 for filing of income-tax return as required under section 153A of the IT Act?

As per Section 153A of the IT Act where a search has been initiated u/s 132 of the IT Act or any books of accounts, other documents and assets are requisitioned u/s 132A of the IT Act the assessing officer may issue a notice to the assessee to file its income-tax return on or before any specified date as mentioned in the notice u/s 153A of the Act. By virtue of the Ordinance, 2020 if due date for filing of such income-tax return as required u/s 153A of the IT Act falls between Specified Period, then said income-tax return can be filed by the assessee on or before 30.06.2020 which would tantamount to due compliance with the requirements of Section 153A without any delay.

4. Does the Ordinance, 2020 also covers within its scope filing of TDS returns as required under the IT Act?

As per provisions of the IT Act, TDS returns are required to be filed Quarterly within the specified time frame after the end of the relevant quarter. In respect this, for the 4th Quarter of FY 2019-20 ending on 31.03.2020, the due of filing of TDS return is 31.05.2020. However, since the Ordinance, 2020 provide extension of time limit for filing of such returns or statements wherein time limits to file falls between the Specified Period, now TDS returns for 4th Quarter of FY 2019-20 due to be filed on 31.05.2020 can be filed on or before the extended period of 30.06.2020 without marking any delay in statutory compliance.

5. Whether the Ordinance, 2020 also provides for extension of time limit to income tax authority to serve intimations or notices to the assessee under the IT Act?

Along with coming up with the extension of time limit to deal with the challenges faced by the tax payers in making statutory or regulatory compliances, the Ordinance, 2020 also provides for extension of time limits to income tax authority for serving notices, intimations, for sanctions or approvals etc. in cases of tax payer wherein time limits for serving various notices, intimations, obtaining sanctions or approvals etc. falls between Specified Period. In all such cases, time limit to serve notices, intimations, seeking/granting sanctions or approvals as the case may be stands extended to 30.06.2020 or such further date if notified.

For instance, intimation u/s 143(1) of the IT Act can be sent only before expiry of 1 year from end of financial year in which income-tax return is made. Accordingly, for income-tax returns filed in FY 2018-19, intimation u/s 143(1) can be filed till 31.03.2020 as per the time limit provided in the IT Act. However, on account of extension of time limit given in the Ordinance, 2020 now the intimation u/s 143(1) can be served till 30.06.2020 or such further date if notified.

6. Does relaxation of time limits provided by Ordinance, 2020 also provides for extension in time limit for making payment of advance tax for Financial Year 2019-20?

Section 211(1) of the IT Act provides for time limit for making payment of advance tax wherein in respect of assessee's covered u/s 44AD or 44ADA, 100% of the advance tax is to be paid by 15th March of the relevant financial year whereas for other assessee's payment of advance tax has to be made in four specified installments ending on 15th March of the relevant financial year. However, any payment made on or before 31st March of the relevant financial year by way of advance tax is also treated as advance tax duly paid during the financial year itself. In this regard, for FY 2019-20, last date for making payment advance tax for all the assessee was 15.03.2020. However, any payment made on or before 31.03.2020 is also considered as advance tax duly paid in terms provision of section 211(1) of the IT Act.

By the Ordinance, 2020, no extension in time limit for making payment of advance tax has been given, however, a reduced rate of interest at the rate of 0.75% per month or part of month has been provided on delayed payment of taxes wherein tax is paid after 31.03.2020 but on or before 30.06.2020 or such further date if notified.

7. Whether TDS deducted for the month of March 2020, be deposited on or before 30.06.2020 without any interest?

As per Rule 30(2)(a) of Income Tax Rules, 1962, all sums deducted in accordance with the provisions of Chapter XVII-B by deductors other than an office of the Government, is

required to be paid to the credit of Central Government, on or before 30.04.2020, where the income or amount is paid or credited in the month of March, 2020.

As per Ordinance, 2020, there is no relaxation with respect to payment of taxes on due dates of payment of such tax as specified under the IT Act. However, relaxation has been given with respect of levy of interest at reduced rates of 0.75% p.m. or part of month for delay in deposition of due taxes where the dues dates of such deposition falls between the Specified Period. Thus, if TDS deducted in the month of March, 2020 is deposited on or after 30.04.2020 it would attract interest at reduced rate of interest of 0.75% p.m. as against rate of interest of 1.5% p.m.

Further, as per Ordinance, 2020 relaxation is also given in such case in respect of penalty or prosecution. It is clarified that such relaxation in respect of reduced interest rates, penalty or prosecution is not given in respect of cases where the due dates of compliances under the IT Act falls beyond the Specified Period.

8. Does the Ordinance, 2020 relaxes the time limits under IT Act for making investments or purchases etc. required for being eligible to claim exemption from capital gain tax?

Various provisions contained under section 54 to 54GB of the IT Act provides certain exemptions from the capital gains earned during the year on fulfillment of conditions as specified therein. Often one of the conditions in Section 54 to 54GB of the IT Act to become eligible to claim such exemption is to make some investments, purchases or acquisition etc. in some specified assets within the specified time limit. The Ordinance, 2020 also extends the time limit for making such investments, purchases or acquisitions till 30.06.2020 or such further other date, if notified, wherein such actions were falling due during the Specified Period, however, no compliances could be made.

For instance, as per Section 54EC of the IT Act in order to claim exemption from capital gain arising from transfer of long term capital asset being a land or building, the assessee has to invest the whole or part of such capital gains in a specified asset within a period of 6 months after the date of transfer. Accordingly, to claim exemption u/s 54EC of the IT Act for an asset transferred on 30.09.2019, the investment in the specified asset/bond is required to be made on or before 31.03.2020. However, in such case, as per Ordinance, 2020, Assessee can now make investment on or before 30.06.2020 or such further other date, if notified .

9. Does the Ordinance, 2020 extends the time limits for making eligible investments/payments to claim deductions of Chapter VI-A of the IT Act?

For claiming any deduction u/s 80C to 80GGC of the IT Act , the tax payer has to make some investments/payments as specified under these sections on or before 31.03.2020. On account of the Ordinance, 2020 various time limits for making compliance with the conditions of Section 80C to 80GGC of the IT Act has been extended till 30.06.2020.

For instance, for claiming deduction u/s 80C of the IT Act for FY 2019-20, investment in term deposits or life insurance policy can be made till 30.06.2020 in due compliance of the said section instead of time limit of 31.03.2020. Accordingly, assessee can claim deduction for investment made upto 30.06.2020 in its return of income for FY 2019-20.

10. Whether date of filing statement of specified financial transactions under section 285BA of the IT Act has been extended?

In light of provision of Section 285BA of the IT Act, for the FY 2019-20, specified assessee's are to furnish statement of specified financial transaction in Form No. 61A on or before 31.05.2020. Now, by virtue of the amendments brought in by the Ordinance, 2020 the Statement of specified financial transaction in Form No. 61A for financial year 2019-20 can be furnished on or before 30.06.2020 or by such further other date if notified.

11. Does the Ordinance, 2020 provides for extension of time limit for issuance of notice for assessment/ reassessment under section 148 of the IT Act in respect of AY 2013-14?

As per Section 149(1)(b) of the IT Act, notice for assessment/ reassessment under section 148 can be issued within six years from the end of relevant assessment year where escaped income exceeds Rs. 1 Lakhs. As per extant provision under the IT Act, time limit for issuance of notice u/s 148 of IT Act for AY 2013-14 was on or before 31.03.2020. However, now by virtue of the extension in time limits given in the Ordinance, 2020 notice u/s 148 of IT Act for AY 2013-14 can be issued till 30.06.2020, if the same was not issued earlier.

12. Does the Ordinance, 2020 provides relief to the tax payer or the department for filing of any appeal under the IT Act?

Where any person is aggrieved by any order passed by an authority under the IT Act, he has right to prefer an appeal before the CIT(A), ITAT, High Court or Supreme Court under various provisions of the IT Act. The Ordinance, 2020 also duly covers the cases of due date of filing of appeals under the IT Act by providing extension of time limit of filing of appeal till 30.06.2020 or such further date if notified.

For instance, as per Section 248 of the IT Act, appeal before CIT(A) can be filed within 30 days of communication of passing of order against which appeal is to be filed. However, now by virtue of the extension provided by the Ordinance, 2020 in respect to the orders received between the time frame of 19.02.2020 to 30.05.2020, appeal before CIT(A) can be filed till 30.06.2020 or such further date if notified . Similarly, as per Section 253 of the IT Act, appeal before ITAT can be filed within 60 days of communication of passing of order against which appeal is to be filed. However, now by virtue of the extension provided by the Ordinance, 2020 in respect to the orders received between 20.01.2020 to 30.04.2020, appeal before ITAT can be filed till 30.06.2020 or such further date if notified.

13. Whether time limit for beginning of manufacture or production of articles or things or provisioning of services as required u/s 10AA of the IT Act is also extended?

Where in case the letter of approval issued as per provisions of Special Economic Zone Act, 2005 has been issued on or before 31.03.2020 and time limit for beginning the manufacture or production of articles or things or provisioning of services as required u/s 10AA falls between 20.03.2020 to 29.06.2020, and no such compliance has been made within such time, then the time limit for beginning such manufacture or production of articles or things or provisioning of services as required u/s 10AA of the IT Act will stand extended to 30.06.2020 or such further date if notified.

14. Whether the donation made to “Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” on account of the COVID-19 pandemic will be allowed as deduction under the IT Act?

In order to combat the spread of Covid-19 and to promote to serve the needy, the Government has amended the scope of Section 80G of the IT Act to cover the donations made by the tax payers towards PM CARES FUND. Irrespective of the donations made in other specified funds, any payment made towards PM CARES FUND shall be eligible for 100% deduction u/s 80G of the IT Act.

15. Does the Ordinance, 2020 also covers within its scope the relaxation of time limit for making payment of disputed tax, interest, fees or penalty under the DTVV Act?

As per the erstwhile Section 3 of the DTVV Act, if a taxpayer pays the amount of disputed tax, disputed fees, disputed interest or disputed penalty, as the case may be, upto 31.03.2020, then he was liable to pay an amount of 100%¹ of disputed tax and 25% in

¹ 125% in case of search

case of disputed fees, disputed interest or disputed penalty to settle their pending tax disputes under the DTVV Act. Further, in case of departmental appeal, the said payable amounts were further reduced by 50%. Also, as per the erstwhile provisions of Section 3 that existed before the Ordinance, 2020 was brought into force, if the taxpayer pays the amount under the DTVV Act on or after 01.04.2020 but before the last date, he was required to pay an additional amount of 10% of disputed tax, disputed interest, disputed fees or disputed penalty, as the case may be.

Now, by way of the Ordinance, 2020, the aforesaid time-limit of 31.03.2020 upto which the taxpayer can pay an amount of 100%² of disputed tax and 25% in case of disputed fees, disputed interest or disputed penalty to settle their pending tax disputes has now been extended to 30.06.2020. Hence, the additional 10% of the disputed amount(s) i.e., disputed tax or disputed interest or disputed fees or disputed penalty, shall be payable only in cases where the taxpayer makes the requisite payment under the DTVV Act on or after 01.07.2020.

16. Adjudicating Authority in respect of reference under the provision of Prohibition of Benami Property Transactions Act, 1988 ("PBPT Act"), passed the order on 28.02.2020. Assessee wants to challenge this order before Appellate Tribunal. Can he file appeal before the Appellate Tribunal u/s 46 of PBT Act on or before 30.06.2020?

As per provision of section 46 of PBT Act, any person aggrieved by the order of Adjudicating Authority may prefer appeal against the order of Adjudicating Authority within a period of 45 days from the date of order, i.e. 13.04.2020 in present case. By virtue of the Ordinance, 2020 the relaxation with respect to extension of time limit to file appeal is also provided in respect of appeal under PBPT Act. Since, the time limit as per extant provision of PBPT Act is on or before 13.04.2020 which falls between the Specified Period, the said limit is extended to 30.06.2020 or such other further date if notified.

17. Whether in a case referred in Q. No. 16, any application for condonation of delay is also required to be filed, if appeal is filed after 13.04.2020 but on or before 30.06.2020.

² 125% in case of search

In view of Ordinance 2020 extending the time limit, there is no delay in filing of appeal as such if appeal is filed on or before 30.06.2020 in the present case. Therefore, no application for condonation of delay is required.

18. Whether extension of time limits provided by Ordinance, 2020 to 30.06.2020, in the above discussed cases can be further extended to any other date?

In view of Ordinance 2020, the Central Government may, by of notification in this regard, specify any date after 30.06.2020 in all cases where time limit specified, prescribed or notified under the Specified Act were falling between Specified Period. For this purpose, Central Government can issue notification in this behalf and specify any date after 30.06.2020 for the said compliances or completion of various actions.

19. Is there any relaxation with respect to Indirect Taxes also in the Ordinance, 2020?

That the Central Government is cautious of the fact that on account of the present situation it will be difficult to comply with statutory requirements relating to Goods & Services Tax also, by the industry. Therefore, considering the same the Central Government has incorporated section 8 in the Ordinance, 2020 to incorporate section 168A in the Central Goods and Services Tax Act, 2017. The section empowers Central Government to extend the time-limit, from a retrospective date, in respect of actions which cannot be completed or complied with due to *force majeure*. The term '*force majeure*' has also been defined, which includes epidemic also.

Note: No such notification u/s 168A of Central Goods and Services Tax Act, 2017 has been issued as of now. We shall discuss the implication or effect of any such notification issued u/s 168A of Central Goods and Services Tax Act, 2017 through our separate publication.

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