



TAX EDGE

Monthly Tax & Regulatory Updates



Audit



Tax



Regulatory

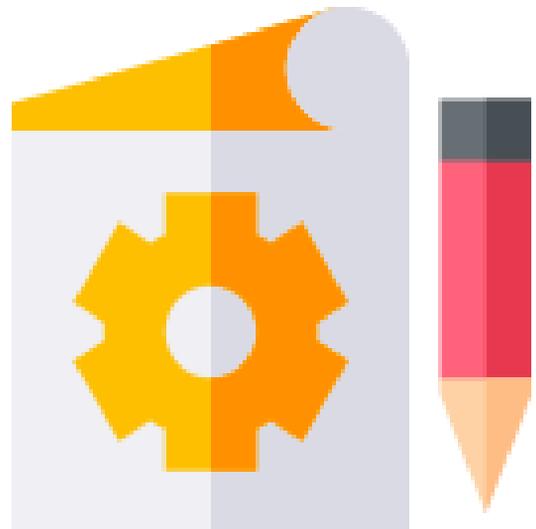
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India General Election 2019

The 2019 general election of India, largest democracy of the world, was held from 11 April to 19 May 2019 to constitute the 17th Lok Sabha (Lower House of Parliament). The counting of votes and declaration of results took place on 23 May 2019. About 900 million people were eligible to vote, turnout was over 67% – the highest ever till date.



The Modi Government (Bharatiya Janata Party - led alliance) won 353 out of 542 seats, representing a clean sweep of 62%. The Congress-led alliance won 92. Other parties and their alliances won 97 seats. Prime Minister Modi was declared clear victory. The Indian voters rejected many political dynasty candidates for the seats they had historically won in the past.

‘Sabka saath’ (Everybody’s contribution), ‘Sabka vikas’ (Everybody’s welfare), ‘Sabka vishwas’ (Everybody’s faith) is Modi Government’s mantra for the next 5 years for empowering India as a major superpower.

Goods & Services Tax (GST)

Goods & Services Tax

GST revenue collection for April 2019 recorded highest collection since GST implementation

Gross GST revenue collection in the month of April, 2019 is Rs.113,865 crore (details given below), which is a growth of 10.05% over revenue collection for the same month last year (i.e, April 2018)

IGST (Integrated Goods and Services Tax)	Rs. 54,733 crore
CGST (Central Goods and Services Tax)	Rs. 21,163 crore
SGST (State Goods and Services Tax)	Rs. 28,801 crore
Compensation cess	Rs. 9,168 crore
Total	Rs.113,865 crore

Please [Click Here](#) to read press release dated 1st May, 2019

Clarification in respect of utilization of input tax credit (ITC) post insertion of the rule 88A of the CGST Rules

Background

The newly inserted section 49A of the CGST Act provides that the ITC of Integrated GST has to be utilized completely before ITC of CGST / SGST can be utilized for discharge of any tax liability. Further, as per section 49 of the CGST Act, credit of IGST has to be utilized first for payment of IGST, then CGST and then SGST in that order mandatorily. This led to a situation, in certain cases, where a taxpayer has to discharge his tax liability on account of one type of tax (say SGST) through electronic cash ledger, while the ITC on account of other type of tax (say CGST) remains un-utilized in electronic credit ledger. Clarification has been sought regarding the above challenge being faced by taxpayers.

Clarification issued by Central Board of Indirect Taxes and Customs (CBIC):

It is clarified that newly inserted rule 88A in the CGST Rules allows utilization of ITC of IGST towards the payment of CGST and SGST, in any order subject to the condition that the entire ITC on account of IGST is completely exhausted first before the ITC on account of CGST or SGST can be utilized. After the insertion of the said rule, the order of utilization of ITC will be as per the order given below (numerals)

Input tax Credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax / Union Territory tax
Integrated tax	(I)	(II) – In any order and in any proportion	
<i>(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</i>			
Central tax	(V)	(IV)	Not permitted
State tax / Union Territory tax	(VII)	Not permitted	(VI)

Goods & Services Tax

The following illustration would amplify the impact of newly inserted rule 88A

Illustration

Amount of ITC available and output liability under different tax heads:

Head	Output Liability	Input tax Credit
Integrated tax	1000	1300
Central tax	300	200
State tax / Union Territory tax	300	200
Total	1600	1700

Option 1:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated tax	1000	200	100	0
<i>Input tax Credit on account of Integrated tax has been completely exhausted</i>				
Central tax	0	100	-	100
State tax / Union territory tax	0	-	200	0
Total	1000	300	300	100

Option 2:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated tax	1000	100	200	0
<i>Input tax Credit on account of Integrated tax has been completely exhausted</i>				
Central tax	0	200	-	0
State tax / Union territory tax	0	-	100	100
Total	1000	300	300	100

Presently, the common portal supports the order of utilization of ITC in accordance with the provisions before implementation of CGST (Amendment) Act i.e. pre-insertion of Section 49A and Section 49B. Therefore, till the new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented on the common portal, taxpayers may continue to utilize their ITC as per the functionality available on the common portal.

Please [Click Here](#) to read circular dated 23rd April, 2019.

Goods & Services Tax

Clarification regarding filing of application for revocation of cancellation of registration

Background

Registration of several persons was cancelled under section 29(2) of the CGST Act, 2017 due to non-furnishing of returns in Form GSTR-3B or Form GSTR-4. Section 29(2) of the said Act empowers the authorities to cancel the registration, including from a retrospective date. Thus registration have been cancelled either from the date of order of cancellation of registration or from a retrospective date.

Representations have been received by the Government that large number of persons whose registration were cancelled could not apply for revocation of the said cancellation of registration within the period of 30 days as provided in section 30(1) of the said Act. Accordingly, a Removal of Difficulty Order (RoD) number 05/2019-Central Tax dated the 23 April, 2019 has been issued wherein persons whose registrations have been cancelled up to 31st March, 2019, have been given one-time opportunity to apply for revocation of cancellation of registration on or before the 22 July, 2019. Further, vide notification No. 20/2019-Central Tax, dated the 23rd April, 2019, two provisos have been inserted in rule 23(1) of the Central Goods and Services Tax Rules, 2017.

Clarification issued by CBIC:

CBIC has clarified the issues relating to the procedure for filing of application for revocation of cancellation of registration:

- First proviso to rule 23(1) provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid.

Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. Further, in such cases, in terms of the second proviso of rule 23(1), all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within 30 days from the date of the order of revocation.

- Where the registration has been cancelled with retrospective effect, the common portal does not allow furnishing of returns after the effective date of cancellation. In such cases it was not possible to file the application for revocation of cancellation of registration. Therefore, a third proviso was added to rule 23(1) enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within 30 days from the date of order of such revocation of cancellation of registration.

Goods & Services Tax

Illustration:

Return not furnished from	Date of order of cancellation of registration	Cancellation of registration effective from	Date of filing of application for revocation of cancellation of registration as per RoD (to be filed on or before the 22 nd July, 2019)	Returns to be furnished before filing the application for revocation of cancellation of registration	Date of order of revocation of registration	Date of furnishing returns for period b/w date of order of cancellation of registration and date of revocation of cancellation of registration (to be filed within thirty days from the date of order of revocation of cancellation of registration)	Returns to be furnished within thirty days from date of order of revocation of cancellation of registration
July, 18	01 st March, 19	01 st March, 19	30 th May, 19	Returns due till 01 st March, 19 (i.e. July, 18 to January, 19)	01 st June, 19	01 st July, 19	Returns due till 01 st June, 19 (i.e. February, 19 to April, 19)
July, 18	22 nd March, 19	22 nd March, 19	20 th June, 19	Returns due till 22 nd March, 19 (i.e. July, 18 to February, 19)	22 nd June, 19	22 nd July, 19	Returns due till 21 st June, 19 (i.e. March, 19 to May, 19)
July, 18	01 st March, 19	01 st July, 18	30 th May, 19	NA	01 st June, 19	01 st July, 19	Returns due till 01 st June, 19 (i.e. July, 18 to April, 19)

Please [Click Here](#) to read circular dated 23rd April, 2019.

Interest on delayed payment of tax to be computed on gross tax liability: Telangana High Court

The jurisdictional High Court of Telangana has recently ruled on an important matter, as to whether interest for delayed payment of tax is payable on the net tax liability (i.e, tax payable after adjusting ITC) or the total (gross) tax liability.

The High Court has ruled that interest is payable on the total tax liability including the amount paid by way of utilization of ITC. While deciding the issue, Court has made following observations:

- Until a return is filed, the taxpayer is not entitled for ITC and no entry of credit in the electronic credit ledger takes place. Thus, the taxpayer cannot discharge the tax liability by utilizing the ITC balance.
- The tax already paid on the inward supplies is available with the taxpayer, however mere availability of credit is not equivalent to payment of tax.
- The eligible ITC should be tapped and brought in the form of a credit entry into the electronic credit ledger for payment of tax.
- Delay in filing of the returns results into delay in payment of tax liability which may be payable partly in cash and partly by utilizing the available ITC. Only when the tax liability is discharged, Government gets a right over the money available in the ledger, hence it is entitled to interest up to the date of payment.

Please [Click Here](#) to read the order passed by Telangana High Court.

Direct Tax

Direct Tax

Central Board of Direct Taxes (CBDT) again defers GST, GAAR (General Anti Avoidance Rule) reporting in tax audit report till March 2020

Background:

In July 2018, Government had changed the tax audit form - 3CD, seeking details under GST as well as GAAR, seeking to prevent companies from routing transactions through other countries to avoid taxes. The changes were to come into effect from 20th August, 2018. However, the reporting was kept in abeyance till 31st March 2019 vide circular no.6 dated 17th August, 2018.

The changes required following reportings by companies:

Clause 30C (GAAR):

Whether the assessee has entered into an 'impermissible avoidance arrangement' during the relevant year? 'Impermissible arrangements' for this purpose are the one whose main objective is to obtain tax benefit, and it;

- creates rights / obligations which are not created ordinarily, if the persons have transacted at Arm's length;
- results to misuse or abuse of tax provisions;
- lacks or deemed lacks commercial substance; or
- results to a transaction which is not carried out for bona-fide purposes.

If the answer to the above question is Yes, then the tax auditor has to report the nature of impermissible avoidance arrangement and amount of tax benefit obtained by all the parties involved.

Clause 44 (GST):

Break-up of total expenditure of entities registered or not registered under GST. Objective of this reporting is to empower tax department co-relate the data with the records of Indirect tax department, thereby helping in curbing tax evasion. In the said clause, total expenditure incurred by the assessee should be bifurcated in two buckets i.e. (a) entities registered under GST; and (b) entities not registered under GST.

Further extension of reporting time line by CBDT:

In view of representations received from stakeholders, CBDT has further deferred the requirement for above reportings till 31st March 2020.

Please [Click Here](#) to read the circular dated 14th May 2019.

Direct Tax

E-filing of tax returns saw 19% growth in Assessment Year ('AY') 2018-19, says Finance Ministry

The finance ministry said there was growth of 19% in income-tax returns (ITRs) electronically filed for the AY 2018-19, compared to those in AY 2017-18. The Ministry said a total of 66.8 million returns were e-filed in Financial Year (FY)19, which included 64.9 million for AY19. On the other hand, a total 67.4 million returns were e-filed in 2017-18 (FY18), which included 54.7 million for AY18. The statement came amid certain reports that the number of returns e-filed in FY19 saw a decrease on yearly basis.

According to the data released by the Ministry, fewer returns were filed in FY19 for earlier years than 12.7 million in FY18. This, the ministry explained, was due to an amendment in the Income-tax Act, which mandated that a revised return could be furnished only up to the end of the relevant AY. The amendment was effective from April 1, 2018. As such, only 1.4 million returns pertaining to AY18 were filed in FY19, as these were the revised returns for the relevant assessment year.

The ministry also said the number of paper returns for AY18 stood at 920,000, which constituted 1.5 % of the total filed. On the other hand, 480,000 paper returns were filed for FY19, which accounted for 0.6 % of the total submitted.

Please [Click Here](#) to read the Press Release dated 6th May 2019.

Income Tax Department searches a Coimbatore-based business group dealing in lotteries

Income Tax Investigation Directorate, Chennai conducted searches on a Coimbatore based business group handling the lotteries run by certain State Governments under agreements with them to function as a Marketing Agent. The search commenced on 30 April 2019 across 70 premises located in Coimbatore, Chennai, Kolkata, Mumbai, Delhi, Hyderabad, Guwahati, Siliguri, Gangtok, Ranchi and Ludhiana. The group is particularly active in lotteries of West Bengal and North – Eastern States where it has monopoly control. The group also has dealings in Real Estate and finance business in Coimbatore in a big way.

The group has been under the Department's radar for quite some time due to the continuous and huge fall in its advance tax payments in the last two years. During the search, the assessee admitted unaccounted income of Rs.595 crore received from stockists towards manipulation of Prize Winning Tickets ('PWT').

In respect of its real estate and finance business in Coimbatore, the assessee has also admitted to offer further unaccounted income to tax after reconciliation of the over 600 crore of unaccounted receipts (including on-money received in real estate and interest received on loans given) and payments made for various investments.

During the search, 8.25 crore of unaccounted cash was found, out of which 5.8 crore cash was seized. The remaining cash has been kept under prohibitory orders for further verification. Prima facie, unaccounted gold and diamond jewellery of an approximate value of about 24.57 crore was also found in the search which was also placed under prohibitory orders as verification is under process.

Please [Click Here](#) to read the Press Release dated 4th May 2019.

Direct Tax

CBDT and Goods and Services Tax Network (GSTN) sign pact to attack evaders, reduce black money generation

To nab tax evaders and reduce black money generation, the income tax department and GSTN signed an agreement to facilitate exchange of data between them.

The income tax department will share key financial information, including status of tax return filings, turnover of business, gross total income, and turnover ratio among others, with GSTN.

Besides, the two sides will decide on the modalities for 'automatic', 'spontaneous' and 'request based' exchange of data. The Principal Director of Income-tax (Systems) or Director General of Income-tax (Systems) will enter into a Memorandum of Understanding (MoU) with Nodal Officer, GSTN for sharing such information. As per the circular issued by the CBDT, the MoU shall also include different modalities such as confidentiality, timings, secure preservation, disposal after use, related to the exchange of data.

The move will allow both the departments to verify the information filed by businesses in their income tax returns viz-a-viz GST returns.

Please [Click Here](#) to read the order dated 30th April 2019.

CBDT proposes new audit report form for Trusts / Institutions requiring extensive details, seeks comments

The CBDT in order to seek more details from trusts/institutions and to amend a much needed 45 years old audit report format for trusts/institutions released a draft notification for amending Rule 17B related to audit rules for trusts/institutions.

The draft notification, which has been put in public domain for comments till 5th June, includes a new 8 page Form 10B as against existing 3 page form. Some of the additional details sought in the annexure to the form are:

- Statute under which trust/institution is constituted
- Status of registration under I-T Act
- Object of trust institution
- Details of modification of object clause
- Details of income and application of income
- Compliance to conditions for application
- Registration status under Foreign Contribution Regulation Act (FCRA), 2010
- Method of accounting policy
- TDS (Tax Deduction at Source) compliance
- Breakup of the donation received for corpus or other purposes and its further breakup into receipt of donation into cash and kind
- Detail of foreign donations received
- Details of donors to whom certificates are issued for claiming deduction u/s 80G
- Accounting policies adopted and impact of Income Computation and Disclosure Standards (ICDS)
- In case of trust/institution with object classified as 'advancement of any other object of general public utility', the new form would seek details as to whether such activity is in the nature of trade, commerce, business or services in relation thereto for cess, fees etc. and details of receipt from such activity
- Where business undertaking is held as 'property held under trust', proposed form requires extensive details and also filing of audit report in Form 3CA/3CB

Please [Click Here](#) to read the draft notification dated 21st May 2019

Company Law

Company Law

Extension of last date of filing e-form ACTIVE (Active Company Tagging Identities and Verification) up to 15th June, 2019

The Ministry of Corporate Affairs (MCA) through notification dated 25th April, 2019 has issued Companies (Registration Offices and Fees) Second Amendment Rules, 2019.

Background:

Earlier, every company incorporated on or before the 31st December, 2017 was required to file the particulars of its Registered Office, in E-Form ACTIVE on or before 30th April, 2019.

Relaxation provided:

Ministry has relaxed the requirement for filing of e-form ACTIVE without payment of additional fees up to 15th June, 2019 as below:

Fee payable till 15 th June, 2019 on e-form ACTIVE	NIL
Fee payable in delayed case (beyond 15 th June, 2019)	Rs. 10,000

Please [Click Here](#) to read the notification dated 25th April, 2019.

Extension of last date of filing e-form DPT-3 up to 30th June 2019

MCA through notification dated 30th April, 2019 has issued Companies (Acceptance of Deposits) Second Amendment Rules, 2019.

Background:

MCA vide notification dated 22nd January, 2019 has mandated for specified companies to file a one-time return of outstanding receipt of money or loan by a company (not considered as 'deposits'), in Form DPT-3 within 90 days from the date of said publication of the notification along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

Relaxation provided:

Ministry has decided to extend the last date for filing of e-form DPT-3 without payment of additional fees up to 30th June, 2019.

Please [Click Here](#) to read the notification dated 30th April, 2019.

Company Law

Registration of Creation or Modification of Charge with Registrar of Companies ('ROC')

MCA through notification dated 30th April, 2019 has issued Companies (Registration of Charges) Amendment Rules 2019.

Background:

Companies Act, 2013 introduced that for creation and satisfaction of charge on assets, form CHG-1 is required to be submitted with ROC within 30 days of satisfaction, otherwise company has to file application for compounding with Regional Director of the concerned state. However, by Companies Amendment Act, 2017 the limit of 30 days was increased upto 300 days. However, Companies (Amendment) Ordinance, 2018 on 2 November 2018 restored the above time line to 30 days again.

Highlights of the notification:

1. In case charge is created before 2 November 2018, time-limit upto 300 days of such creation or 6 months from 2 November 2018 shall be available for filing charge form with ROC (alongwith additional fee).
2. If charge is created after 2 November 2018 following shall be the period allowed for filing of charge form with ROC.

Particulars	Time Period	Days	Fee
Registration of Charge with ROC	Within 30 days of Creation	0+30	Normal Fee
In case of failure to file within 30 days	within a period of 60 days of such creation	0+30+30 = 60	Normal Fee + Additional Fee
In case of failure to file within 60 days	Registrar may, on an application, allow such registration to be made within a further period of 60 days	0+30+30+60 = 120	Normal Fee + Additional Fee + Advalorem Fee

Please [Click Here](#) to read the notification dated 30th April, 2019.

Company Law

Revised fee for filing charge documents

MCA through notification dated 30th April, 2019 has issued Companies (Registration Offices and Fees) Third Amendment Rules, 2019

Revised Fees for filing charge documents:

1. Charges created or modified before the 2nd November, 2018, and allowed to be filed within 300 days days of such creation or six months from the 2nd November, 2018, as the case may be, the following additional fees shall be payable:-

Period of delay	Additional Fee applicable
Up to 30 days	2 times of normal fees
More than 30 days and up to 60 days	4 times of normal fees
More than 60 days and up to 90 days	6 times of normal fees
More than 90 days and up to 180 days	10 times of normal fees
More than 180 days	12 times of normal fees

2. For the charges created or modified on or after the 2nd November, 2018:

- A. The following additional fees, as the case may be, shall be payable up to 31st July, 2019, by all companies:

Period of delay	Additional Fee applicable
Up to 30 days	2 times of normal fees
More than 30 days and up to 60 days	4 times of normal fees
More than 60 days and up to 90 days	6 times of normal fees

- B. The following additional fees, shall be payable with effect from 1st August, 2019:-

Period of delay	Small Companies and One Person Company	Other than Small Companies and One Person Company
Up to 30 days	3 times of normal fees	6 times of normal fees
More than 30 days and up to 90 days	3 times of normal fees plus an ad valorem fee of 0.025 per cent. of the amount secured by the charge, subject to the maximum of one lakh rupees.	6 times of normal fees, plus an ad valorem fee of 0.05percent of the amount secured by the charge, subject to the maximum of Rs.5 lakh.

Please [Click Here](#) to read the notification dated 30th April, 2019.

Company Law

Extension of filing Director Know Your Customer (KYC) in e- form DIR-3 KYC

MCA through notification dated 30th April, 2019 has issued Companies (Appointment and Qualification of Directors) Amendment Rules, 2019.

Background:

MCA vide notification dated 05th July, 2018 has mandated for every person who has been allotted a Director Identification Number (DIN) as on 31st March of a financial year to submit e-form DIR-3-KYC to the Central Government on or before 30th April of immediate next financial year.

Relaxation provided:

Going forward, DIR-3 KYC shall be filed latest by 30th June of every financial year by every person who has been allotted a Director Identification Number (DIN) as on 31st March of a financial year.

Please [Click Here](#) to read the notification dated 30th April, 2019.

Increase in fee for removal of name of company

MCA through notification dated 8th May, 2019 has issued Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2019.

Background:

Earlier, statutory filing fee of form STK-2 (i.e. form to be filed at time of striking off the name of the company), was Rs.5000.

There was no specific provision clarifying that whether a company, which has not started its business since incorporation or which has ceased to carry its operation since last 2 financial years, is required to file return or not before filing application for striking off its name.

Highlights of the notification issued:

Going forward, the company can file form STK-2 only when it has filed overdue returns in form AOC-4 (Financial Statement) / XBRL and form MGT-7 (Annual Return) upto the end of financial year in which the company ceased to carry its business.

The filing fees of form STK-2 has been increased to Rs.10,000 from 10th May, 2019.

Please [Click Here](#) to read the notification dated 8th May, 2019.

Company Law

MCA provides clarity on availability of name

MCA through notification dated 10th May, 2019 has issued Companies (Incorporation) Fifth Amendment Rules, 2019.

Background:

Companies were facing issues due to rejection of proposed names by MCA due to minor errors / overlaps in the names. For providing ease and clarifying doubts regarding name-availability, MCA has taken this step by substituting the old rules with the new rules.

Highlights of the notification:

- Various illustrations have been provided to guide in cases where proposed names resemble too nearly with the name of an existing company
- The amendment also provides illustrations for the basis of undesirable names
- The amendment provides the list of word or expression which can be used only after obtaining previous approval from the Central Government.

Please [Click Here](#) to read the notification dated 10th May, 2019.

Directors of company required to file e-form ACTIVE timely

MCA through notification dated 16th May, 2019 has issued Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2019.

Background:

Earlier, every company incorporated on or before the 31st December, 2017 was required to file the particulars of its Registered Office, in E-Form ACTIVE (Active Company Tagging Identities and Verification) on or before 30th April, 2019.

Highlights of the notification:

- Where a company fails to file the e-form ACTIVE within the period specified therein, the Director Identification Number (DIN) allotted to its existing directors, shall be marked as “Director of ACTIVE non-compliant company”.
- Where the DIN of a director has been marked as “Director of ACTIVE non-compliant company”, such director shall take all necessary steps to ensure that all companies, where such director has been so appointed, file e-form ACTIVE.
- After all the companies file the e-form ACTIVE, the DIN of such director shall be marked as “Director of ACTIVE compliant company”.

Objective of the notification is to encourage prompt filing of E-Form ACTIVE by companies. Please [Click Here](#) to read the notification dated 16th May, 2019.

Company Law

Clarification on Form ADT-1 (Appointment of Auditor) filed through GNL-2 during the period 1st April 2014 to 20th October 2014

MCA has issued a General Circular on 13th May 2019 clarifying that the companies which had filed Form ADT-1 through form GNL-2 (as an attachment by selecting 'others') during non-availability of e-form ADT-1 from 1st April 2014 to 20th October 2014 may file e-form ADT-1 for appointment of Auditor for the period upto 31st March 2019 without any fee till 15th June 2019 (since fee had been paid for filing GNL-2 for the same purpose).

Further, the Companies, which had filed form ADT-1 through e-form GNL-2 even after the deployment of e-form ADT-1 will have to file the e-form ADT-1 now alongwith additional fee.

Please [Click Here](#) to read the circular dated 13th May, 2019.



Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

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