

A black and white photograph of a tree trunk cut in half, showing the concentric growth rings of the wood. The text "Now, for tomorrow" is overlaid in white, bold, sans-serif font.

Now,  
for tomorrow

## DIRECT TAX ALERT

16 May 2019

### CBDT further defers<sup>1</sup> GAAR & GST reporting in Tax Audit Report till 31<sup>st</sup> March, 2020

#### BACKGROUND

- Central Board of Direct Taxes (CBDT) had last year amended<sup>2</sup> Form No. 3CD w.e.f. 20-08-2018 to increase the scope of tax audit wherein various new clauses were inserted for additional disclosures and reporting in the Tax Audit Report. This *inter alia* included reporting in respect of General Anti-Avoidance Rules (GAAR) [Clause 30C] & Goods and Service Tax (GST) [Clause 44].
- Subsequently, various recommendations were made by ICAI and various professional associations that aforesaid new clauses should be reconsidered and appropriately modified preferably after due consultation with the stakeholders and implemented from AY 2019-20 for smooth implementation and compliance.
- In response to these recommendations, CBDT had clarified<sup>3</sup> that the reporting under the above clauses i.e., Clause 30C for GAAR & Clause 44 for GST shall be kept in abeyance till 31-03-2019. CBDT stated that the Tax Auditors will not be required to furnish the details in respect of the aforesaid two clauses in the Tax Audit Report to be furnished on or after 20-08-2018 but before 31-03-2019.

#### CBDT CIRCULAR

- Subsequent to the above, CBDT received representations that the implementation of reporting requirements in relation to GAAR and GST may be deferred further. Accordingly, reporting under

<sup>1</sup> Circular No. 9/2019 dated 14-05-2019

<sup>2</sup> Notification No. 33/2018 dated 20-07-2018

<sup>3</sup> Circular No. 6/2018 dated 17-08-2018

Clause 30C and Clause 44 of the Tax Audit Report in relation to GAAR & GST respectively has been further kept in abeyance till 31-03-2020.

## KEY TAKEAWAYS

- This is a welcome move by CBDT seeking to reduce compliance burden on the taxpayers as well as tax auditors which would have been onerous.
- The reporting in relation to GAAR of determining whether an agreement is an impermissible avoidance agreement will involve detailed investigation on the part of Tax Auditor. It is difficult even for an AO or CIT to determine whether an arrangement is an impermissible avoidance arrangement and it is only the Approving Panel which can declare an arrangement as impermissible avoidance arrangement. In such a scenario, it needs to be decided whether responsibility should be cast on the tax auditor for expressing opinion on complex transactions entered by the clients when there is no precedence on such issue.
- Similarly the reporting requirement in respect of break-up of total expenditure of entities registered or not registered under the GST Act would have increased the burden of verification due to the large, voluminous data in the cases of large taxpayers. Further reporting on the aspects of GST law would require specialization on that law which itself is in developing stage and is witnessing frequent changes. It would be very difficult to provide break-up for “total expenditure” into GST and non-GST expenditure without doing the reconciliation. Such details has to be reported by GST Auditor as part of Annual Return under GST law and seeking such details from Tax Auditor would have led to duplication of efforts. The cost of verification would have outweigh the benefits, if any, derived from the information.

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