Daily Tax Feed

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ROC issues notice to 11,888 companies for non compliance with company law

Section Involved: Contravention of section 162, 168, 210, 220

Fact :

The ROC of Punjab, Haryana, Himachal Pradesh and Chandigarh has served a showcause notice on 11,888 companies for not filing the balance sheets for three years.

-35 companies are listed and 22 are government undertakings.

-6,112 companies from Punjab, 4,002 from Chandigarh and 1,774 from Himachal Pradesh.

Official Statement:

Mr. Raj Singh from ROC elaborated:

-These companies were found guilty of the contravention of the provisions of the **Section 162, 168, 210 & 220** of the Companies Act, 1956. According to the provisions, ***the companies and its directors can be fined Rs 1,000 a day. The companies are given time till August 31 to file an explanation.***

-The warning was given to the companies for not filing their balance sheets during the period and the directors would be barred from joining another company in the same capacity in the future, he added.

-The Amnesty Scheme, under which these companies fall, allows a 75 per cent discount to these defunct companies and gives them an 'Easy Exit Scheme' option. In case the August 31 deadline lapses, criminal prosecution against these companies will begin."

-**Section 433** of the Companies Act lists that not filing their balance sheet for 5 years with ROC can lead to dissolution of any of defunct company

Supreme Court : Export duty on goods supplied from DTAs to SEZs unjustified

Case: special leave petitions filed by the Centre against *Essar Steel, Adani Power*

Section: Sec 30 & 53 of SEZ Act, Se c 12 of Customs Act

Background:

Currently, sales by SEZ units to domestic tariff area are subject to a Customs duty as SEZs are designated tax-free zones with an obligation to be net forex earners. Although there is no provision in the law for a levy on the reverse sale, the Customs authorities have started demanding a tax.

Gujarat High Court 's order allowed Essar Steel to supply from its DTA unit at Vizag to the Hazira SEZ without paying customs duty on goods. Against which Ministry of Commerce filed special leave petitions with apex court, taking the position that SEZs are to be considered territory outside India under Section 53 of the 2005 Act, and goods supplied to a unit in an SEZ should be treated as exports.

Apex Court Held:

A Bench headed by ***Justice D K Jain*** held that the companies were not liable to pay customs duty in the absence of any specific provisions under the SEZ Act, 2005, or any corresponding amendment in the Customs Act 1962.

Advocate *Tarun Gulati*, who appeared for *Adani*, eloborated:

-Duty is levied on goods sent from a unit in the SEZ area to the rest of India under Sec 30 of SEZ Act, but no provision for the reverse case is there.

- Prior to introduction of SEZ Act, there was a specific provision in this regard under Section 76F of the Customs Act, which has been deleted.

-Now customs duty can't be levied by relying on Section 12 of the Customs Act, which still remains unamended."

Notification No.49/2010 dated 9th July 2010 : Amendment in the rule relating to E-filing of ITR

Impact:

-It is now mandatory for all companies to file income tax return electronically in Form No.ITR-6 with digital signature. Earlier, companies could file their electronic returns with or without digital signature.

-Further, now all individuals and Hindu Undivided Families (HUFs), who are required to get their accounts audited under section 44AB of the Income Tax Act 1961, are also required to file their income tax return in Form No.ITR-4 electronically with or without digital signature. Earlier, this condition was applicable only to companies and partnership firms.

[Accounts are required to be audited under the income tax law, if turnover or gross receipts from business exceeds Rs.40 lakh (Rs.60 lakh from assessment year 2011-12 onwards), or if turnover or gross receipts from profession exceeds Rs.10 lakh (Rs.15 lakh from assessment year 2011- 12 onwards)]

PERSPECTIVE CORNER

Direct Tax Code : Oil & gas companies get a raw deal:

Given the importance and risk profile of the oil & gas sector, **under the current regime**, it is eligible for the following major dispensations:

- seven-year 100% tax holiday on profits;

- allowance of 100% deduction of capital expenditure incurred on exploration and drilling in the year these costs were incurred;

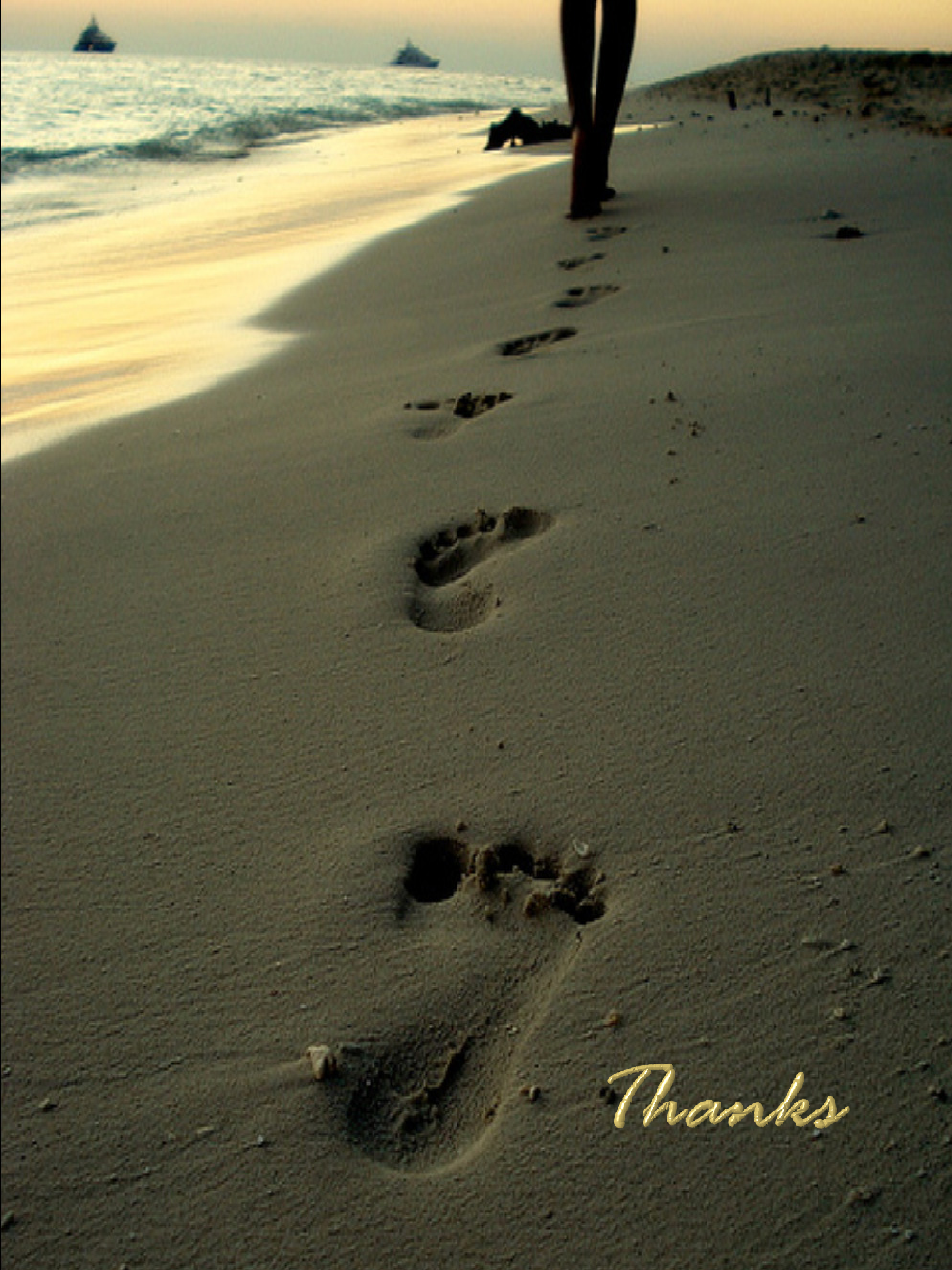
- deduction of unsuccessful exploration costs against profits from the blocks covered by other contracts and

- taxation of partners independently instead of as an association of persons (AOP).

DTC Proposal:

- DTC has proposed removing the seven-year 100% tax holiday on profits. This will make exploration less attractive.

- DTC has proposed a deduction of capital expenditure in the year in which the costs were incurred. This was in any case available to exploration and production (E&P) companies under section 42 of the Income Tax Act, 1961 (Act), read with production sharing contracts (PSC) that these companies need to enter.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