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# SNK

## Newsletter

### RECENT ECONOMIC DEVELOPMENT

- ◆ Bearing good news for the farm sector, the India Meteorological Department (IMD) predicted a 'normal' monsoon this year and said there is a "very less possibility" of a deficient monsoon. The forecast suggests maximum probability (42%) for normal monsoon and low probability (14%) for deficient rainfall. Along with the 42% probability of a normal monsoon, IMD said there was a 30% chance of below-normal rains and a 12% possibility of above-normal rainfall. Rainfall between 96% and 104% of LPA (Long period average) during the June-September monsoon period is considered normal. IMD's forecast comes with an error margin of +/-5%.
- ◆ India's annual retail inflation eased for the third straight month in March to 4.28 percent, as food prices fell, government data showed.
- ◆ India's factory output remained strong in February, suggesting a rosier outlook for the economy, despite a slight moderation due to the decline in mining activity. The index of industrial production rose 7.1 percent in February over the year, compared with a revised 7.4 percent growth in the previous month, according to data from the Ministry of Statistics and Programme Implementation.
- ◆ India's inflation as measured by the Wholesale Price Index (WPI) slowed to an eight-month low of 2.47% in March, compared with 2.48% in February and 5.11% a year earlier. Data released by the commerce and industry ministry showed deflation in food articles after nine months — prices shrank 0.29% in March, against 0.88% inflation in the preceding month.
- ◆ India's economy is forecast to grow 7.4% in the current fiscal from 6.7% in FY18 and accelerate further in FY20 to 7.8%, shows the IMF's latest forecast, which is unchanged from its October outlook.
- ◆ Consumer inflation of USA rose by an annualized 2.4%



in March the Labor Department said, up from 2.2% in the previous month.

- ◆ Prices rose 454 percent in the first three months of this year in Venezuela, according to the country's opposition-led National Assembly, whose numbers are broadly in line with those of independent economists.
- ◆ The U.S. government ran a \$209 billion budget deficit in March as outlays grew and receipts fell, the Treasury Department said. That compared with a budget deficit of \$176 billion in the same month last year, according to Treasury's monthly budget statement.
- ◆ China's trade surplus with the United States rose 19.4 percent in the first quarter to \$58.25 billion from the same period a year earlier.
- ◆ China's overseas shipments posted a decline on seasonal effects around the Chinese New Year holiday. Exports fell 2.7 percent in March after a 44.5 percent gain the previous month, the customs administration said, compared with a projected 11.8 percent increase in Bloomberg's survey of economists. Imports increased 14.4 percent, leaving a surprise trade deficit of \$4.98 billion, the first since February 2017.

(Source: Business news papers and Magazines)



- ◆ U.S. consumer sentiment pulled back in April from what had been its highest level since 2004 in the previous month as Americans became concerned over future trade agreements, according to a report. The preliminary publication of the data for April from the University of Michigan's Consumer Survey Center showed that consumer sentiment fell to 97.8 last month.
- ◆ U.S. retail sales rose 0.6% in March the Commerce Department said. This was compared to a 0.1% drop in the previous month. Core retail sales, which exclude automobiles, gasoline, building materials and food services, rose 0.2% in March.
- ◆ U.S. sanctions have brought one of Russia's industrial titans to its knees. Penalties on United Co. Rusal and its billionaire owner, Oleg Deripaska, have locked the aluminum producer out of the \$140 billion global industry, and the impacts are being felt far and wide. Banks, soda-can makers and the world's biggest miners are among those starting to feel the pinch.
- ◆ The United States and European allies launched airstrikes against Syrian research, storage and military targets as President Trump sought to punish President Bashar al-Assad for a suspected chemical attack near Damascus that killed

more than 40 people.

- ◆ China's economic expansion held up amid robust consumer spending, underpinning global growth and giving authorities more room to purge excessive borrowing. Gross domestic product grew 6.8% in the first quarter from year earlier
- ◆ The number of people in employment in the UK rose 55,000 in the three months to March, in line with expectations. The claimant count, which measures the change in the number of people claiming unemployment benefits fell to 11,600 from 15,100 in the three months to February.
- ◆ The mood among German investors worsened in April. The Mannheim-based ZEW research institute said its monthly survey showed its economic sentiment index fell to negative 8.2 from 5.1 in April. That was compared to the consensus forecast for a reading of minus 0.8.
- ◆ U.S. industrial production rose in March. The Federal Reserve reported that industrial output advanced 0.5% last month after gaining 1.0% in February.
- ◆ The International Monetary Fund raised its forecast for German economic growth, predicting a healthy 2.5 percent expansion for Europe's biggest economy this year. The forecast represents an increase of 0.2 percentage points from the IMF's January projection. For 2019, the IMF expects a calendar-adjusted growth rate of 2.0 percent.
- ◆ Japan's exports rose 2.1 percent in March from a year earlier, Ministry of Finance data showed, due to a rebound in shipments to China. The result compared with a 4.7 percent increase expected by economists in a Reuters poll. It fol-

lowed a 1.8 percent rise in the prior month.

- ◆ China's home prices rose at the fastest pace in three months in March, fueled by gains in smaller cities, even as the government maintained a two-year campaign to cool the housing market. New-home prices across 70 cities gained 0.42 percent from a month earlier, according to Bloomberg calculations based on data from the National Bureau of Statistics. That compared with a 0.25 percent increase in February.
- ◆ The annual rate of change in Britain's consumer price index fell to 2.5% last month, the Office for National Statistics said. This was compared to 2.7% in the previous month.
- ◆ Australian employment rose less than forecast in March and the previous month's gain was revised to a decline, suggesting the central bank will keep interest rates on hold. Jobs rose 4,900 from February, when they dropped by a revised 6,300; economists forecast 20,000 gain for March. Unemployment rate was 5.5%; estimate 5.5%.
- ◆ British shoppers stayed home in March as they felt the chill from the 'Beast from the East', leading to the biggest quarterly fall in retail sales in a year and weighing on first-quarter economic growth, official figures showed. Unusually cold and snowy weather caused retail sales volumes to drop by 1.2 percent compared with the month before, the Office for National Statistics said, a bigger fall than most economists polled by Reuters had expected.





**The Director, Prasar Bharati vs. CIT (Supreme Court)**

Payment by Prasar Bharati Doordarshan Kendra to various accredited advertising Agencies to secure more business was in nature of commission paid to agencies liable to TDS under section 194H and since appellant failed to deduct TDS while making these payments to Agencies, they committed default of non-compliance of section 194H, therefore, provisions of section 201 were rightly invoked by Assessing Authority.

The Explanation appended to Section 194H defines the expression "commission or brokerage". It is an inclusive definition and includes therein any payment received or receivable, directly or indirectly by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to assets, valuable article or thing not being securities. Clause (ii) defines professional services; clause (iii) defines securities; and clause (iv) provides a deeming fiction for treating any income so as to attract the rigor of the Section for ensuring its compliance

**Skylight Hospitality LLP vs. ACIT (Supreme Court)**

Object and purpose behind Section 292-B is to ensure that technical pleas on the ground of mistake, defect or omission should not invalidate the assess-

ment proceedings, when no confusion or prejudice is caused due to nonobservance of technical formalities. The object and purpose of this Section is to ensure that procedural irregularity(ies) do not vitiate assessments. Notice/summons may be defective or there may be omissions but this would not make the notice/summon a nullity. Validity of a summon/notice has to be examined from the stand point whether in substance or in effect it is in conformity and in accordance with the intent and purpose of the Act. This is the purport of Section 292B.

**Mahaveer Kumar Jain vs. CIT (Supreme Court)**

It is a fundamental rule of law of taxation that, unless otherwise expressly provided, income cannot be taxed twice. A taxing Statute should not be interpreted in such a manner that its effect will be to cast a burden twice over for the payment of tax on the taxpayer unless the language of the Statute is so compelling that the court has no alternative than to accept it. In a case of reasonable doubt, the construction most beneficial to the taxpayer is to be adopted.

**Pr. CIT vs. Veedhata Tower Pvt. Ltd (Bombay High Court)**

The assessee is not required to explain the "source of source" prior to insertion of the proviso to s. 68. If the assessee has discharged the primary onus placed upon it u/s 68 by filing confirmation letters, the Affidavits, the full address and pan numbers of the creditors, the Revenue has to proceed against the persons whose source of funds are alleged to be not genuine.

The proviso to Section 68 of the Act has been introduced by the Finance Act, 2012 w.e.f. 1st April, 2013 and therefore it would be effective only from Assessment Year 2013-14 onwards

and not for the earlier assessment years. Where the Revenue urges that the money has been received from bogus shareholders then it is for the Revenue to proceed against them in accordance with law. This would not entitle the Revenue to invoke Section 68 of the Act while assessing the respondent for not explaining the source of its source.

**Deepak Mittal vs. ACIT (ITAT Delhi)**

When books of account of the assessee are not reliable and rejected by the authorities below under section 145 (3) of the I.T. Act and there is no challenge to these findings of the authorities below, there is no reason for the authorities below to rely upon the same books of account for the purpose of making addition under section 40A(3) of the I.T. Act as well as to make addition of peak under section 68 of the I.T. Act.



**Amod Shival Shah vs. ACIT (ITAT Mumbai)**

An admission of estimated income made during survey has no evidentiary value and is not binding on the assessee. The income has to be assessed as per the return of income and books of account.

**Shantivijay Jewels Ltd vs. DCIT (ITAT Mumbai)**

The fact that the supplier admitted to issuing bogus bills does not necessarily mean that he had issued accommodation bills to the assessee. There is subtle but very important difference in





**Judicial pronouncements**

issuing bogus bills and issuing accommodation bills to a particular party. The difference becomes very important when a supplier in his affidavit admits supply of goods. As far as sales are concerned there is no doubt about the genuineness of such sales. It is also a fact that suppliers were paying VAT and were filing their returns of income. In response to the notices issued by the AO u/s 133(6) of the Act, the supplier admitted the genuineness of the transaction. Accordingly, the purchases cannot be treated as bogus.

**ACIT Vs Ho Hup Simplex JV (Kolkata Tribunal)**

Where assessee was awarded a contract to construct Road by NHAI and it was to procure raw material, make arrangements for power, water, plant machinery etc., and conduct all other activities needed for construction, assessee was a developer and not a mere works contractor and, accordingly, was eligible for deduction under section 80-IA.

**Meta Plast Engineering P. Ltd. vs. ITO (ITAT Delhi)**

Passing the reassessment order before the expiry of 4 weeks of passing the order of objections renders the reassessment order void. Also, if the reasons state "bogus accommodation entries were provided/taken" and it is not clear whether the assessee has received or provided accommodation entries, it means there is no application of mind by the AO while recording reasons.

**International Taxation****Godaddy.com LLC vs. ACIT (ITAT Delhi)**

Domain name is an intangible asset which is similar to trademark. Consequently, income from services rendered

in connection with such domain name registration is assessable as "royalty" u/s 9(1)(vi) of the Income-tax Act.

**Johnson Matthey India (P.) Ltd. Vs DCIT (Delhi ITAT)**

Where assessee, engaged in manufacturing of auto exhaust catalyst, entered into technology collaboration agreement with AE for use of technology, trademarks and patent for carrying out its manufacturing activities, it could not be concluded that no benefit was derived by assessee by entering into said agreement with AE and, therefore, CUP method would be most appropriate method for determining ALP of payment of royalty made to AE in pursuance of technology collaboration agreement.

**Hospira Healthcare India (P.) Ltd. Vs DCIT, International Tax (Chennai Tribunal)**

Reimbursement of expenditure does not form part of gross amount of fees for included services and is thus not income chargeable to tax; assessee is not obliged to deduct tax at source on reimbursement of expenditure.

**Calance Software (P.) Ltd. Vs DCIT-3 (1) (Delhi ITAT)**

As per Instruction No. 3/2003 issued by CBDT, Assessing Officer should have decided issue of international transaction himself instead of referring it to Transfer Pricing Officer when quantum of International transaction is below monetary limit of Rs. 5 crore

**INDIRECT TAXES****Judicial pronouncements****Rod Retail (P.) Ltd. In re. (Delhi Authority for advance ruling)**

Supply of goods made to international outbound passengers holding international boarding pass from retail outlet of applicant located in Security Hold Area of IGI International Airport, Terminal-3, may be taking place beyond Customs Frontiers of India as defined under section 2(4) of IGST Act, 2017. However, said outlet is not outside India, as claimed by applicant but same is within territory of India as defined under section 2(56) of the CGST Act, 2017 and section 2(27) of the Customs Act, 1962 and hence applicant is not taking goods out of India and hence their supply cannot be called 'export' under section 2(5) of the IGST Act, 2017 or 'zero rated supply' under section 2(23) and section 16(1) of the IGST Act, 2017. Accordingly, the applicant is required to pay GST at applicable rates.

**Joint Plant Committee, In re (AAR-West Bengal)**

Where an applicant is engaged exclusively in supplying goods and services that are wholly exempt from tax, he will not be not liable to be registered in accordance with provisions under section 23(1) of GST Act, subject to condition that applicant is not otherwise liable to pay tax under Reverse Charge mechanism under section 9(3) of GST Act or section 5(3) of IGST Act.

**Sarva Shri Neeraj Mishra Bhandar Vs Commissioner, Commercial Tax (Uttarakhand High Court)**

Samosa is considered to be cooked food and not 'namkeen', hence it would attract higher tax rate.



- The e-way bill system for intra-State movement of goods has already been rolled out in the States of Andhra Pradesh, Gujarat, Karnataka, Kerala, Telangana, Bihar, Haryana, Himachal Pradesh, Jharkhand, Tripura, Uttarakhand and Uttar Pradesh. Now, the Govt. has informed that e-way bill system for intra-State movement of goods would be implemented from April 25, 2018 in 5 more States or UTs, namely, Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim and Puducherry.
- The Govt. has issued clarification on issues regarding 'Bill To Ship To' transactions for E-way bill. It clarified that one e-way bill is required to be generated either by supplier or person who ordered the goods as per the prescribed procedure.
- The E-way bill system would be applicable from May 01, 2018 in the State of Maharashtra for intra-State movement of goods.
- Govt. has informed that e-way bill system for intra-State movement of goods would be implemented from April 20, 2018 in State of Tripura.

### Due Dates of key compliances pertaining to the month of May 2018:

|                                 |   |
|---------------------------------|---|
| <b>7<sup>th</sup> May 2018</b>  | <b>TDS/TCS Payment for the month of April</b>                                 |
| <b>10<sup>th</sup> May 2018</b> | <b>GSTR-1 for April - for assessee having turnover more than Rs. 1.50 Cr.</b> |
| <b>15<sup>th</sup> May 2018</b> | <b>ESIC / PF Payments for the month of April</b>                              |
| <b>20<sup>th</sup> May 2018</b> | <b>GSTR-3B Return for April</b>   |
| <b>31st May 2018</b>            | <b>TDS return filing for 4th Quarter ended 31st March, 2018.</b>              |

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The information contained in this newsletter is of a general nature and it is not intended to address specific facts, merits and circumstances of any individual or entity. We have tried to provide accurate and timely information in a condensed form however, no one should act upon the information presented herein, before seeking detailed professional advice and thorough examination of specific facts and merits of the case while formulating business decisions. This newsletter is prepared exclusively for the information of clients, staff, professional colleagues and friends of SNK.

