

# NEWS CHRONICLE

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*If you don't build your dreams, someone  
else will hire you to help them build theirs.*

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**(Knowledge Manager with Acquisory)**

# CONTENT

SEPTEMBER 2017

<u>AT A GLANCE</u>	4
<u>ARTICLES</u>	5
• <u>IBC: BOON OR BANE?</u>	5
• <u>BITCOINS – A DISRUPTOR OR PORTENT FOR FUTURE</u>	9
<u>LEGAL UPDATES</u>	12
• <u>RESERVE BANK OF INDIA (RBI)</u>	12
• <u>MINISTRY OF CORPORATE AFFAIRS (MCA)</u>	13
• <u>SECURITIES EXCHANGE BOARD OF INDIA (SEBI)</u>	17
• <u>TAXATION</u>	19
• <u>OTHERS</u>	22
<u>GLOSSARY</u>	24

# AT A GLANCE

ACQUISORY NEWS CHRONICLE SEPTEMBER 2017

## ARTICLE

### *IBC A Boon or Bane*

IBC 2016 was notified in May, 2016 which is one of the major initiative of the Government to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

The code aims to provide for speedy disposals of cases as it has divided the authority and the jurisdiction of the NCLT and DRT between individuals and companies. It also provides with a list of priorities which shall be given preference for settlement of such debts at the time of liquidation of the assets of the company (first on the list is settlement of liquidation cost).

### *Bitcoins – A Disruptor or Portent For Future*

A revolution of sorts, bitcoin is a currency system based on Mathematics, and hence, is completely devoid of authority and the commodities of the physical world. Bitcoin is a form of digital currency, created and held electronically. No one controls it. Bitcoins aren't printed, like dollars or euros – they're produced by people, and increasingly businesses, running computers all around the world, using software that solves mathematical problems.

Bitcoin have several important features that set it apart from government – backed currencies – it's decentralized, its easy to set up, its anonymous, its completely transparent, transaction fees are miniscule, its fast, its non – repairable.

## LEGAL UPDATES

- ***Issuance of Rupee Denominated Bonds (RDBs) Overseas -*** RBI has issued circular with regard to Issuance of Rupee of Denominated Bonds Overseas w.r.t. External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers. It has been decided, in consultation with the Government of India, to exclude issuances of RDBs from the limit for investments by FPIs in corporate bonds with effect from October 3, 2017.
- ***MCA clarifies meaning of joint venture for appointment of Independent Directors -*** MCA has made amendment to rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014. The said amended Rule 4 inter-alia provides that an unlisted public company which is a joint venture, a wholly owned subsidiary or a dormant company will not be required to appoint Independent Directors.
- ***Change in reporting norms for Category III AIFs, regarding investment in commodity derivatives market -*** SEBI has revised the reporting formats for Category III AIFs so as to capture the information pertaining to investment in commodity derivatives. All Category III AIFs are advised to submit the monthly/quarterly report in the revised format for the period ended September 30, 2017 onwards.
- ***CBEC Extends Deadline for Filing GST Returns -*** GIC (GST Implementation Committee) has extended the date of GSTR 1, GSTR 2 and GSTR 3 for the month of August to 5th, 10th and 15th October 2017 respectively.
- ***Centre announces new PPP Policy to promote private investments in affordable housing - Central assistance of up to Rs.2.50 lakh per house now available for building houses on private lands -*** Ministry of Housing & Urban Affairs has announced a new PPP Policy for Affordable Housing that allows extending central assistance of up to Rs.2.50 lakh per each house to be built by private builders even on private lands besides opening up immense potential for private investments in affordable housing projects on government lands in urban areas.

# Insolvency and Bankruptcy Code 2016

## IBC: BOON OR BANE?

### Introduction

The Insolvency and Bankruptcy Code (IBC), 2016 has been enacted to merge the existing laws related to insolvency and bankruptcy. The IBC involves standard steps which is viable and understandable. So, everyone, be it creditors, debtors, companies, or shareholders etc. shall have a standard perform for any matters relating to insolvency.

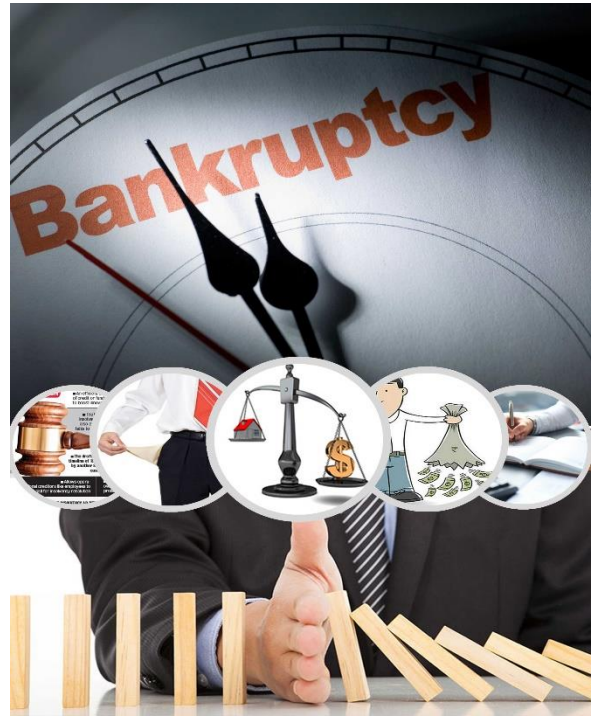
*“The IBC has been a real game changer in the Indian economy’s business reform initiatives in the last twenty five years. Ease of doing business is ironically the base premise for enacting the comprehensive Code to exit from the business.”*

The IBC has made a spectacular progress in short span. The recent orders issued by the Adjudicating Authorities are beginning to have profound impact on defaulting business owners as the message is loud and clear “settle dues or cede control”.

### Why was IBC enacted?

Initially there was Presidency Towns Insolvency Acts, 1909 which was applicable in Kolkata, Chennai and Mumbai and the Provincial Insolvency Act 1920 for the rest of India, for regulating the insolvency laws. The Act applied to individuals and partnerships but exempted corporations from within its ambit. Post Independence, the bankruptcy and insolvency were specified in Constitution and with the passage of time there were numerous acts which governed Insolvency and bankruptcy issues such as the Sick Industrial Companies (special provision) Act, 1985 (“SICA”), SARFAESI Act, 2002, the Recovery of Debts due to Banks and financial institutions Act, 1993 (“RDDBFI Act”), Companies Act, 1956 as well as Companies act, 2013.

But these regulations have not yielded satisfactory results. These regimes were high fragmented, borne out of multiple judicial forums resulting in lack of clarity and certainty of



jurisdiction. Further, we had various adjudicatory bodies/Tribunals to deal with such issues and matters under different Acts stated above.

So, this led to the unclear knowledge about the authority as to whom the parties should approach in the related matters. Hence, this resulted in overlapping of decisions. There was no common regulatory authority to regulate the rights of the secured or unsecured creditors, employees etc. or to determine the priority of their claims. Large number of stressed assets such as NPAs with low recovery rates due to a lack of enabling environment for the enforcement of creditor’s rights. Moreover there was no adequate or credible data regarding the assets, indebtedness etc. of companies which further heighten the problems. Hence large number of legislations and non-statutory guidelines have made the recovery of debt a complex and time consuming process.

# Insolvency and Bankruptcy Code 2016

## IBC: BOON OR BANE?

The IBC is a welcome overhaul which has directly addressed in resolving the insolvency and bankruptcy issues of corporates and simultaneously serving creditors and public financial institutions by helping them in recovery of bad and distress loans and ultimately tackling Non Performing Assets. The Main objective of Code is distribution of the effects of a debtor in the most expeditious, equal and economical mode. The Code lays down the complete procedure of Insolvency Resolution process which involves collating claims and reviewing the requisite financial and other relevant records of the company. The introduction of this Code has brought in ample opportunities for professionals ranging from being appointed as official liquidator to managing the financial health of corporates in case of distressed assets.

### Present Scenario

Today we have IBC, 2016, which provides a specialized forum to oversee all liquidation and insolvency proceedings for individuals, SMEs and Corporates. The Code triggers a uniform law or process for a valid claim. The Code has replaced all the existing laws and come up with a uniform procedure to resolve insolvency and bankruptcy disputes. Now, in case of any dispute, an insolvency professional will be appointed to take control of the corporate debtor. The whole process or proceedings get resolved within a standard time limit. In the case of a default, the time- limit is 180 days, within which the resolution has to be completed. This can be extended by another 90 days by the adjudicator, depending on the process. The Code provides a balanced approach between rehabilitation and recovery and provides for compulsory liquidation it also provides a clearly –defined waterfall mechanism for payment of debt in the event of liquidation.

The IBC enacted to radically change the process of insolvency resolution in India, is keenly watched by economists and jurists as well as businessmen and investors, for the reason that each aspect of the implementation of law has the potential to critically impact the ease of doing business in India. For this reason the code is especially sensitive to interpretation and it is vital that the issues thrown up in its inaugural year of implementation be recognized and the judicial remark on the same be understood.

**To meet the objectives of timeliness and value maximization, the IBC has a new institutional set-up comprising four critical pillars:**

1. A robust and efficient adjudicating authority to hear the cases.
2. A regulated profession of insolvency professionals (IPs) to manage the insolvency and bankruptcy cases.
3. A regulated competitive industry of information utilities (IUs) to reduce information asymmetries in the insolvency resolution process.
4. A regulator – the Insolvency and Bankruptcy Board of India (IBBI) – to perform legislative, executive and quasi-judicial functions with respect to the IPs, and IUs and draft regulations for the resolution procedures under IBC.

# Insolvency and Bankruptcy Code 2016

## IBC: BOON OR BANE?

### Five Main Pillars /Constituents of Code

Pillars/Constituent's	Description
<b>Insolvency Professionals</b>	<ul style="list-style-type: none"> <li>➤ Insolvency professional is a professional endowed with specialized knowledge, training and recognized by Insolvency Professional Agency and Insolvency and Bankruptcy Board of India for undertaking insolvency proceedings. The Code has specifically prescribed Appointment, Qualification and Registration of professionals for acting as an intermediary to play a vital role in insolvency process.</li> <li>➤ It further provides that no person is allowed to render service as an IP except as a member of the Insolvency Professional Agency. Such member is also required to register with the board.</li> <li>➤ The primary objective of an Insolvency professional is to find a resolution plan. The professionals can act in two ways: Interim Resolution Professional, who are appointed by the borrower for the first 30 days of proceedings at the National Company Law Board; and Resolution Professionals, who are usually appointed by the committee of creditors for the next 150-240 days of the stipulated period.</li> </ul>
<b>Insolvency Professional Agency</b>	<ul style="list-style-type: none"> <li>➤ Insolvency professional Agency means any person registered with the Board under section 201 as an insolvency professional agency. In simple terms, Agency is a section 8 Company registered with Board of Insolvency &amp; Bankruptcy of India.</li> <li>➤ The insolvency agency has been envisaged to discharge the following functions as specified under The Insolvency and Bankruptcy Code, 2016: <ul style="list-style-type: none"> <li>• Grant membership to Insolvency Professionals who wants to be its member and fulfil all requirements set out in its byelaws on payment of membership fee.</li> <li>• Lay down standards of professional conduct for its members.</li> <li>• Monitor the performance of its members.</li> <li>• Safeguard the rights, privileges and interests of insolvency professionals who are its members.</li> <li>• Suspend or cancel the membership of insolvency professionals who are its members on the grounds set out in its bye-laws.</li> <li>• Redress the grievances of consumers against insolvency professionals who are its members.</li> <li>• publish information about its functions, list of its members, performance of its members and such other information as may be specified by regulations</li> </ul> </li> </ul>
<b>Insolvency and Bankruptcy Board of India</b>	<ul style="list-style-type: none"> <li>➤ The Insolvency and Bankruptcy Board of India (IBBI) is the most important institutional arrangement for the new insolvency and bankruptcy regime. It was created as the refereeing institution with multiple tasks including creation of regulations and control of agencies and professionals involved in the insolvency and bankruptcy business.</li> <li>➤ The IBBI was established on October 1, 2016 in accordance with the provisions of the Code and has been constituted as a Technical Committee under the IBBI regulations 2017.</li> </ul>
<b>Insolvency Information utility</b>	<ul style="list-style-type: none"> <li>➤ The information utility stores financial information that helps to establish defaults as well as verify claims expeditiously. Having such a system would facilitate completion of transactions under Code within the time period. It shall have compliance officer who shall ensure compliance of all provisions of Code.</li> </ul>

# Insolvency and Bankruptcy Code 2016

## IBC: BOON OR BANE?

	<ul style="list-style-type: none"> <li>➤ Under Code, Regulator Insolvency and Bankruptcy Board of India (IBBI) registers and regulates Information Utilities that receive and store financial information in a universally accessible format duly authenticated by borrowers or creditors.</li> <li>➤ An Information Utility will have authenticated, and verified financial information and the obligation will be on all financial creditors, operational creditors and corporate debtors to provide information to the entity.</li> </ul>
<p><b>Insolvency Adjudicating and Appellate Authorities</b></p>	<p>For expeditious disposal of insolvency application and settlement of claims, the Code has established and constituted Adjudicating and Appellate Authorities.</p> <p><b>Adjudicating Authorities</b></p> <p>a) For Corporate Persons (Companies &amp; LLPs)- National Company Law Tribunal (NCLT) having territorial jurisdiction over the place where the registered office of the corporate person is located.          (b) For Individuals and Partnership Firms- Debt Recovery Tribunal (DRT) having territorial jurisdiction over the place where the individual debtor actually and voluntarily resides or carries on business or personally works for gain and can entertain an application under IBC 2016 regarding such person.</p> <p><b>Appellate Authorities</b></p> <p>a) For Corporate Persons (Companies &amp; LLPs)- National Company Law Appellate Tribunal (NCLAT), any person aggrieved by order of NCLT may file appeal to NCLAT within 30 days of such order. (b) For Individuals and Partnership Firms- Debt Recovery Appellate Tribunal (DRAT), any person aggrieved by order of DRT may file appeal to DRAT within 30 days of such order.</p> <p>No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter of NCLT, NCLAT. Any person aggrieved by an order of the National Company Law Appellate Tribunal or Debt Recovery Appellate Tribunal as the case may be, may file an appeal to the Supreme Court on a question of law arising out of such order under this Code within forty-five days from the date of receipt of such order.</p>

### Conclusion

Overall this legislation is a huge step for a country like India towards joining top 50 in the World Bank's Ease of doing Business and has a potential to bring business practices in India closer to more developed and advanced markets over a long period of time. Moreover, the code aims to provide for speedy disposals of cases as it has divided the authority and the jurisdiction of the NCLT and DRT between individuals and companies. It also provides with a list of priorities which shall be given preference for settlement of such debts at the time of liquidation of the assets of the company (first on the list is settlement of liquidation cost).

IBC has now brought in a complete change in the scenario of resolution of financial distress in the country. IBC also sets methods for working with defaulting borrowers in order to better enable the borrower to better meet financial obligations. Thus in all together it proves to be a boon for the Country.

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## BITCOINS – A DISRUPTOR OR PORTENT FOR FUTURE

### What is Bitcoin?

Bitcoin is a digital currency released by Satoshi Nakamoto which is used to make payments of any value without fees. It runs on the block chain, a decentralized ledger kept running by “miners” whose powerful computers crunch transactions and are rewarded in bitcoins.



*“Bitcoins are intended to be digital currency, where buyers and sellers use them and eliminate all the other mediums such as credit cards, ATM Machines etc. Bitcoins will prove to be safer than carrying plastic cards and which shall be an international currency with no exchange transaction fees.”*

### Understanding bitcoins

A bitcoin is a virtual medium of exchange, a type of cryptocurrency, which is created and tracked online and is secured using cryptography. It is based on blockchain technology, which makes the transactions irreversible, decentralised and publicly verifiable. Blockchain maintains an audit trail, making the transactions quite transparent. A key feature associated with bitcoins is the absence of a centralised authority to issue, exchange, monitor and regulate the currency.

These also offer anonymity, as the currency holder is known by her account ID (wallet ID), and the know-your-customer (KYC) processes may not always be implemented. The transactions done are faster and not bound by geographical limitations, which can help in cost savings on currency conversion charges and other transaction fees. All these aspects create a unique position for bitcoins, possessing both pros and cons, depending on the consumer’s point of view.

### Bitcoins versus digital currency

Currently, there is a fair amount of ambiguity around the terms ‘virtual’ and ‘digital’, with many often using them interchangeably. However, the distinction between both these terms can be explained, taking into account some key parameters.



## BITCOINS – A DISRUPTED OR PORTENT FOR FUTURE

### ✓ **Transparency in transactions:**

There is more transparency in digital currency as compared to cash, but tracing source of funds and historical transactions can often be cumbersome. Bitcoins offer higher transparency, with the chain of historical transactions available.

### ✓ **Potential fraud risks:**

Digital currency has higher susceptibility, if key information is compromised. In case of fraud, banks may sometimes offer protection of assets. Bitcoins are comparatively less prone to fraud loss. The risk lies at the user's end, unless the wallet is compromised by hackers.

### ✓ **Speed of execution:**

Digital currency transactions tend to be quick but adding the beneficiaries may take some time. Bitcoin transactions are relatively quicker.

### ✓ **Volatility in value:**

The value of digital currency is mostly stable and is determined by macroeconomic factors. For bitcoins, it is very volatile as it is not backed by any reserves.

### ✓ **Supply:**

While it may seem that there are no limits on currencies like bitcoin (as they are not backed by national governments), there is an ultimate cap: the way bitcoins are structured, it is expected that their numbers will not exceed 21 million.

### ✓ **Point of possible failure:**

Loss in value of a digital currency could be due to geopolitical and country-specific issues. Bitcoins are decentralised, so there is no single point of failure.

### ✓ **Accessibility:**

Digital currencies are accessible through mobile phones and credit or debit cards. Bitcoins are largely accessible using the internet, credit or debit cards and ATM machines.



## BITCOINS – A DISRUPTED OR PORTENT FOR FUTURE

### Global Usage

Many countries—including the US and the UK as well as many companies operating internationally—have already started accepting bitcoins as a medium of exchange. Emerging markets such as China have adopted them more aggressively, with the total trade value estimated to be close to Rs10,000 crore per day. Increased usage can make such currencies relatively more stable over time and offer opportunities for add-on services such as ATMs, credit and debit cards, insurance against fraud, and loyalty programmes.

In India, the initial adoption of bitcoins has been slow but there is an increase in awareness. The value of transactions per year in India is presently pegged at Rs500 crore, which is led by around 50,000 bitcoin wallets and close to 700-800 bitcoins being traded every day.

Today, India is also one of the largest global remittance markets, with a total value of more than \$70 billion. In this, a majority of remittances are of around \$200 value, for which users typically pay up to 15% in bank charges and conversion fees. Bitcoins could provide an alternate channel for financial inclusion in India, where close to 60% of the population is unbanked and credit and debit card penetration is in single-digit percentages.

These factors can raise the popularity of bitcoins, but could also lead to more risks. As the adoption rate increases over time, consumers can follow certain measures to protect this form of currency, such as by using wallets from reputed providers and storing the wallets in mobile phones that are not jail broken or rooted. Users should also avoid sharing the wallet password or leaving their mobile phones unattended. They should also enable two factor authentication for access.

They can also transfer a smaller amount (a small fraction of a bitcoin) for confirmation, before making a larger transfer.



Pros	Cons
✓ Greater liquidity and freedom of payment	✓ Lack of awareness and understanding
✓ Accepted globally & easily accessible	✓ Illegal and black market activities can be funded
✓ No/Low transaction fees	✓ Non-refundable and no chargebacks
✓ Independent from government regulations	✓ High risk of loss
✓ Easily convertible into multiple currencies	

Consumer vigilance is critical here, as the future of bitcoins could change with innovations in technology. Since Bitcoins are being pushed in India with a lot of vigour, an inter-ministerial committee in India has been set up to study the legality of Bitcoins in the country but until now nothing conclusive has come out.

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# RBI UPDATES

## **1. Reimbursement of MDR Charges for Government transactions up to Rs.1 lakh through debit cards**

RBI vide Notification dated 7<sup>th</sup> September, 2017 has clarified that the full amount paid to the Government by the customers / through debit / credit cards should be remitted to the concerned Government Ministry / Department. The reimbursement of MDR charges on debit card use (up to Rs.one lakh) can be claimed from RBI separately as per extant guidelines. Deduction of MDR charges from the receipts of government is not permissible at all.

MDR charges on debit card transactions above Rs.one lakh and on any credit card transaction are not being absorbed by Government of India and hence will not be reimbursed by RBI. Accordingly, agency banks should not deduct MDR charges from the receipts of the government in these cases also.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11117&Mode=0>

## **2. Issuance of RDBs Overseas**

RBI vide Circular No. 6 dated 22<sup>nd</sup> September, 2017 has issued circular with regard to Issuance of Rupee of Denominated Bonds Overseas w.r.t. External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers. It has been decided, in consultation with the Government of India, to exclude issuances of RDBs from the limit for investments by FPIs in corporate bonds with effect from October 3, 2017.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11128&Mode=0>

## **3. Amendments to Master Direction- Reserve Bank of India (Financial Services provided by Banks) Directions, 2016**

RBI vide Notification dated 25<sup>th</sup> September, 2017 has made amendment to Master Direction – Reserve Bank of India (Financial Services provided by Banks) Directions, 2016. In pursuance of these changes, of the Master Direction on Financial Services provided by Banks is amended to read as under:

“No bank shall - a) Hold more than 10 per cent in the equity of

a deposit taking NBFC. Provided that this does not apply to a housing finance company.

Make an investment of more than 10 per cent of the unit capital of a Real Estate Investment Trust/Infrastructure Investment Trust subject to overall ceiling of 20 per cent of its net worth permitted for direct investments in shares, convertible bonds/ debentures, units of equity-oriented mutual funds and exposures to Alternative Investment Funds.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11129&Mode=0>

## **4. Investment by FPI in Government Securities Medium Term Framework**

Reserve Bank of India (RBI) vide Circular No. 7 dated 28<sup>th</sup> September, 2017 has revised the Limits for Investment by Foreign Portfolio Investors (FPI) in Government Securities for the Quarter Oct-Dec 2017. The limits for investment by FPIs for the quarter October-December 2017 is increased by INR 80 billion in Central Government Securities and INR 62 billion in State Development Loans.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11132&Mode=0>



# MCA UPDATES

## ***1. Directors disqualified under Section 164(2)(a) of the Companies Act, 2013 and who are associated with struck off companies (S.248) are advised not to make any application for Name Availability(INC-1), Incorporation of Companies (INC-7/SPICe-INC-32/URC-1/INC-12)***

Directors disqualified under Section 164(2)(a) of the Companies Act, 2013 and who are associated with struck off companies (S.248) are advised not to make any application for Name Availability(INC-1), Incorporation of Companies (INC-7/SPICe-INC-32/URC-1/INC-12). Forms filed by such Directors shall be rejected summarily by CRC. Further, attention is drawn to the provisions of Section 7(5) and 7(6) which, inter-alia, provides that furnishing of any false or incorrect particulars of any information or suppression of any material information shall attract punishment for fraud under Section 447. Attention is also drawn to the provisions of Section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

## ***2. MCA clarifies meaning of joint venture for appointment of Independent Directors***

MCA vide Circular dated 5<sup>th</sup> September, 2017 has issued the Companies (Appointment and Qualification of Directors) Amendment Rules, 2017 inter-alia amending rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014. The said amended Rule 4 inter-alia provides that an unlisted public company which is a joint venture, a wholly owned subsidiary or a dormant company will not be required to appoint Independent Directors.

It is hereby clarified that a “joint venture” would mean a joint arrangement, entered into in writing, whereby the parties that have joint control of the arrangement, have rights to the net assets of the arrangement. The usage of the term is similar to that under the Accounting Standards.

## ***3. Stricter Norms for Corporate Governance: Punishment for Siphoning off Money from Bank Accounts of “Struck Off” Companies; Disqualification of Directors from Being Appointed or Reappointed in Companies***

In continuation of the Government’s resolve to strengthen the rules and procedures of Corporate Governance, the Government has taken some major decisions to further

strengthen these norms. It has been decided by the MCA that in case the Director or authorized signatory of any “struck off” company tries to unauthorisedly siphon-off money from its bank account, he/she may attract punishment of imprisonment of not less than six months extendible to 10 years. If it is found that the fraud involves public interest, the punishment shall not be less than 3 years and fine may also be imposed which would be three times the amount involved. Consequent to instructions issued by Department of Financial Services (DoFS) to all the Banks on 5<sup>th</sup> September 2017, the Directors (ex-) or their authorized signatories had been restricted from operating the Bank accounts of such companies and they cannot siphon off money from the accounts of these “struck off” companies. However, even prior to such action, if they have siphoned off any money, strict action would still be taken against them. Further, it was also decided that the Directors of such shell companies which have not filed returns for three or more years, will be disqualified from being appointed in any other company as Director and it is expected that as a result of this exercise, at least two to three lakh of such disqualified Directors shall get debarred.

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=170579>

## ***4. Delegation of powers to RDs under section 458 of CA 2013 dt 06.09.2017***

MCA vide Notification dated 6<sup>th</sup> September, 2017, the Central Government has delegated powers to Regional Directors at Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong w.r.t. the powers and functions vested in Section 66(2) – Reduction of Share Capital.

[http://www.mca.gov.in/Ministry/pdf/Delegationpowers\\_07092017.pdf](http://www.mca.gov.in/Ministry/pdf/Delegationpowers_07092017.pdf)

## ***5. Ministry of Corporate Affairs (MCA) identifies more than one lakh directors of shell companies for disqualification***

Pursuant to the action of the Ministry of Corporate Affairs of cancellation of registration of around 2.10 lakh (2,09,032) defaulting companies and subsequent direction of the Ministry of Finance to banks to restrict operations of bank accounts of



# MCA UPDATES

such companies by the directors of such companies or their authorized representatives, the Ministry of Corporate Affairs has identified 1,06,578 Directors for disqualification under Section 164(2)(a) of the Companies Act, 2013 as on September 12, 2017. Ministry of Corporate Affairs is further analyzing the data of these companies available with the Registrar of Companies to identify the Directors and the significant beneficial interests behind these companies. Profiles of Directors such as their background, antecedents and their role in the operations/functioning of these companies are also being compiled in collaboration with the enforcement agencies. The Professionals, Chartered Accountants/Company Secretaries/Cost Accountants associated with such defaulting Companies and involved in illegal activities have been identified in certain cases and the action by Professional Institutes such as ICAI, ICSI and ICoAI is also being monitored. The disqualification under Section 164 of the Act is by operation of law. Further, it may be noted that prior to action against defaulting companies, there were about 13 Lakh companies in the Registry. However, after closing of around 2.10 Lakh Companies, there are about 11 Lakh companies having Active status in the Registry.

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=170719>

## **6. MOU between the Ministry of Corporate Affairs and CBDT for Automatic and Regular Exchange of Information**

The Ministry of Corporate Affairs and Central Board of Direct Taxes (CBDT) have entered into a formal Memorandum of Understanding (MoU) for data exchange to take forward the initiative launched by the Government of India to curb the menace of shell companies, money laundering and black money in the country and prevent misuse of corporate structure by shell companies for various illegal purposes. The MoU will facilitate the sharing of data and information between CBDT and MCA on an automatic and regular basis. It will enable sharing of specific information such as PAN data in respect of corporates, ITRs of corporates, financial statements filed with the Registrar by corporates, returns of allotment of shares, audit reports and statements of financial transactions (SFT) received from banks relating to corporates. The MoU will ensure that both MCA and CBDT have seamless PAN-CIN (Corporate Identity Number) and

PAN-DIN (Director Identity Number) linkage for regulatory purposes. The information shared will pertain to both Indian corporates as well as foreign corporates operating in India. In addition to regular exchange of data, CBDT and MCA will also exchange with each other, on request, any information available in their respective databases, for the purpose of carrying out scrutiny, inspection, investigation and prosecution.

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=170769>

## **7. MCA issues Clarification regarding obligation with the Indian Accounting Standards (Ind AS) and Rule 4 of Companies (Indian Accounting Standards) Rules 2015 w.r.t payment banks, small finance banks which are subsidiaries of Corporates**

MCA has issued Clarification regarding obligation with the Indian Accounting Standards (Ind AS) and Rule 4 of Companies (Indian Accounting Standards) Rules 2015 w.r.t payment banks, small finance banks which are subsidiaries of Corporates. The matter has been examined and it is hereby clarified that the holding Company if it is covered by the Corporate sector roadmap for implementation of IND AS, shall follow the corporate sector roadmap and if the Company has got payment bank or small finance bank as its subsidiary then subsidiary Company shall follow the banking sector roadmap prescribed by RBI. However, the payment banks or small finance banks shall provide the In AS financial data to its holding Company for the purpose of consolidation.

[http://www.mca.gov.in/Ministry/pdf/CompaniesIndianAccountingStandardsGSR365E\\_14092017.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesIndianAccountingStandardsGSR365E_14092017.pdf)

## **8. MCA revises e-forms**

MCA has revised the versions of e-forms - Forms CHG - 9 (Application for registration of creation or modification of charge for debentures or rectification of particulars filed in respect of creation or modification of charge for debentures), Form 66 (Form for submission of compliance certificate with the Registrar), Form DIR-12 (Particulars of



# MCA UPDATES

appointment of Directors and the key managerial personnel and the changes among them), Form CRA-4 (Form for filing Cost Audit Report with the Central Government.). The revised forms will be available on the portal w.e.f 20th September, 2017. Stakeholders are advised to download the latest version before filing. Form- wise date of last version change is available at on the website of MCA.

## **9. Companies (Restriction on number of layers) Rules, 2017**

MCA has notified the Companies (Restriction on number of layers) Rules, 2017 vide Notification dated 20<sup>th</sup> September, 2017. The rules has been formed with regard to restrictions on number of layers for certain classes of holding companies. With the commencement of these rules, no company other than banking company, NBFC and insurance company shall have more than two layers of subsidiaries:

Provided that the provisions of this sub-rule shall not affect a company from acquiring a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country:

Provided further that for computing the number of layers under this rule, one layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account.

## **10. MCA notifies the amendments to the Companies (Acceptance of Deposits) Rules, 2014 which may be known as the Companies (Acceptance of Deposits) Second Amendment Rules, 2017**

MCA has notified the amendments to the Companies (Acceptance of Deposits) Rules, 2014 which may be known as the Companies (Acceptance of Deposits) Second Amendment Rules, 2017 and shall be applicable from the date of publication in the official Gazette i.e. 19-09-2017. Ministry has allowed specified IFSC Companies (means an unlisted public company which is licensed to operate by the RBI or SEBI or IRDA from the International Financial Services Centre located in an approved multi services Special Economic Zone set-up under the Special Economic Zones Act 2005) to accept from its members monies not exceeding one

hundred percent of aggregate of the paid-up share capital, free reserves and securities premium account and such Company shall file the details of monies so accepted to the registrar in Form DPT-3. Further, the maximum limit in respect of deposits to accept from members shall not apply to Private Companies, which are Start-up for five years from the date of its incorporation and companies having borrowing from banks or financial institutions or any body corporate is less than twice of its paid-up share capital or fifty crores rupees, whichever is less.

[http://www.mca.gov.in/Ministry/pdf/CompaniesAcceptanceofDepositSecondAmendmentRule\\_22092017.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesAcceptanceofDepositSecondAmendmentRule_22092017.pdf)

## **11. MCA Issues Office Memorandum for integration of Name Reservation ( INC-1) with Spice E-Form under Companies Act, 2013**

MCA has issued Office Memorandum as recommendation and has invited Public Comments for integration of Name Reservation ( INC-1) with Spice E-Form under Companies Act, 2013. Spice E Form has been introduced whereby procedures of obtaining DIN by the proposed Directors, name reservation, incorporation, allotment of Pan has been integrated into one service, facilitating incorporation of Company. However, availing DIN allotment or name reservation services independently is also simultaneously available to cater to those stakeholder who wish to proceed with incorporation in a piecemeal manner. Therefore, Suggestions are invited from the Stakeholders for further simplification of processes aimed at further easing the starting of a business, which may be filed online at [comments.nameintegration@mca.gov.in](mailto:comments.nameintegration@mca.gov.in) on or before 05/11/2017.

[http://www.mca.gov.in/Ministry/pdf/OMSimplificationOfStartingBusiness\\_26092017.pdf](http://www.mca.gov.in/Ministry/pdf/OMSimplificationOfStartingBusiness_26092017.pdf)



## MCA UPDATES

### ***12. MCA issues clarification regarding the timelines for making applicable/available new Form DPT-3 issued vide the Companies (Acceptance of Deposits) Second Amendment Rules, 2017***

MCA has issued clarification regarding the timelines for making applicable / available new Form DPT-3 issued vide the Companies (Acceptance of Deposits) Second Amendment Rules, 2017. The said amendment Rules inter-alia provide for substitution of existing Form DPT-3 with a new Form DPT-3. MCA has clarified that new Form DPT-3 shall be made available for E-filing after the month of November, 2017 and till the time the new eform is made available, the existing e-form can be used.

[http://www.mca.gov.in/Ministry/pdf/GeneralCircular11\\_27.09.2017.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircular11_27.09.2017.pdf)

### ***13. NCLT issues Order w.r.t. transfer of pending cases pertaining to Oppression and Mis-management***

NCLT has issued an Order w.r.t transfer of pending cases pertaining to Oppression and Mis-management filed under the provisions of the Section 397 & 398 of the Companies Act, 1956 and / or Section 241-242 of the Companies Act, 2013. It has been decided by the competent authorities to transfer 72 cases which were filed in previously and still pending in National Company Law Tribunal, Principal Bench, New Delhi to National Company Law Tribunal, Division Bench, New Delhi. The order is effective from 26-09-2017 and revised schedule of hearing in all such matters are also allocated. Stakeholders are advised to check the details and act accordingly.





# SEBI UPDATES

## **1. Cyber Security and Cyber Resilience framework for Registrars to an Issue / Share Transfer Agents**

SEBI vide Circular No. SEBI/HO/MIRSD/CIR/P/2017/0000000100 dated 8<sup>th</sup> September, 2017 has issued circular with regard to Cyber Security and Cyber Resilience framework for Registrars to an Issue/Share Transfer Agents.

Rapid technological developments in securities market have highlighted the need for maintaining robust cyber security and cyber resilience framework to protect the integrity of data and guard against breaches of privacy. In this regard a framework has been prescribed by SEBI which shall be implemented by December 1, 2017.

[http://www.sebi.gov.in/legal/circulars/sep-2017/cyber-security-and-cyber-resilience-framework-for-registrars-to-an-issue-share-transfer-agents\\_35890.html](http://www.sebi.gov.in/legal/circulars/sep-2017/cyber-security-and-cyber-resilience-framework-for-registrars-to-an-issue-share-transfer-agents_35890.html)

## **2. Acquisition of 'control' under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011**

SEBI has issued a press release stating that Ascertaining acquisition of 'control' under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Regulations") requires consideration of facts and circumstances of each case. This results in a multitude of opinions. In view of the same, it was decided by the Board, to explore adoption of bright-line tests for acquisition of 'control' under the Takeover Regulations. A number of comments from various stakeholders including the views of the Ministry of Corporate Affairs and the Reserve Bank of India were received in this regard. It is felt that any change or dilution in the definition of control would have far reaching consequences since a similar definition of 'control' is used in the Companies Act, 2013 and other laws. The relevant issues have been examined intensively and in view of the aforesaid comments received and considering the current regulatory environment, it has been decided to continue with the practice of ascertaining acquisition of 'control' as per the extant definition in the Takeover Regulations.

[http://www.sebi.gov.in/media/press-releases/sep-2017/acquisition-of-control-under-the-sebi-substantial-acquisition-of-shares-and-takeovers-regulations-2011\\_35891.html](http://www.sebi.gov.in/media/press-releases/sep-2017/acquisition-of-control-under-the-sebi-substantial-acquisition-of-shares-and-takeovers-regulations-2011_35891.html)

## **3. Amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014**

SEBI vide Press Release dated 18<sup>th</sup> September, 2017 has approved amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014. The following amendments have been made:

- i. Allowing REITs and InvITs to raise debt capital by issuing debt securities
- ii. Introducing the concept of Strategic Investor for REITs on similar lines of InvITs
- iii. Allowing single asset REIT on similar lines of InvIT
- iv. Allowing REITs to lend to underlying Holdco/SPV
- v. Amending the definition of valuer for both REITs and InvITs.

Further, the Board, after deliberations, decided to have further consultation with the stakeholders on a proposal of allowing REITs to invest at least 50% of the equity share capital or interest in the underlying Holdco/SPVs, and similarly allowing Holdco to invest with at least 50% of the equity share capital or interest in the underlying SPVs.

[http://www.sebi.gov.in/media/press-releases/sep-2017/sebi-board-meeting\\_35969.html](http://www.sebi.gov.in/media/press-releases/sep-2017/sebi-board-meeting_35969.html)

## **4. Schemes of Arrangement by Listed Entities and (ii) Relaxation under Sub-rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957**

SEBI vide Circular No. CFD/DIL3/CIR/2017/105 dated 21<sup>st</sup> September, 2017 In order to align the requirements specified for listing under schemes of arrangement under Clause III (A)(1)(b) of Annexure I of the Circular with those specified under Rule 19(2)(b) of SCRR, it has been decided to amend Clause III (A)(1)(b) of Annexure I of Circular No. CFD/DIL3/CIR/2017/21 dated March 10, 2017 as under:

“(b) At least twenty five per cent of the post-scheme paid up share capital of the transferee entity shall comprise of shares allotted to the public shareholders in the transferor entity;

Provided that an entity which does not comply with the above requirement may satisfy the following conditions:

- i. The entity has a valuation in excess of Rs.1600 crore as per the valuation report;



## SEBI UPDATES

- ii. The value of post-scheme shareholding of public shareholders of the listed entity in the transferee entity is not less than Rs.400crore;
- iii. At least ten percent of the post-scheme paid up share capital of the transferee entity comprises of shares allotted to the public shareholders of the transferor entity; and,
- v. The entity shall increase the public shareholding to at least 25% within a period of one year from the date of listing of its securities and an undertaking to this effect is incorporated in the scheme”.

[http://www.sebi.gov.in/legal/circulars/sep-2017/schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957\\_36014.html](http://www.sebi.gov.in/legal/circulars/sep-2017/schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957_36014.html)

### ***5. Change in reporting norms for Category III Alternative Investment Funds ("AIFs"), regarding investment in commodity derivatives market***

SEBI vide Circular No. SEBI/HO/IMD/DF1/CIR/P/2017/110 dated 29<sup>th</sup> September, 2017 has revised the reporting formats for Category III AIFs so as to capture the information pertaining to investment in commodity derivatives as per Annexure enclosed in the Circular. All Category III AIFs are

advised to submit the monthly/quarterly report in the revised format for the period ended September 30, 2017 onwards.

[http://www.sebi.gov.in/legal/circulars/sep-2017/change-in-reporting-norms-for-category-iii-alternative-investment-funds-aifs-regarding-investment-in-commodity-derivatives-market\\_36135.html](http://www.sebi.gov.in/legal/circulars/sep-2017/change-in-reporting-norms-for-category-iii-alternative-investment-funds-aifs-regarding-investment-in-commodity-derivatives-market_36135.html)



# TAXATION UPDATES

## **1. Late fee waived for all tax-payers who could not file the GSTR 3B for the month of July 2017**

Ministry of Finance vide Press Release dated 2<sup>nd</sup> September, 2017 it has been decided that late fee for all taxpayers who could not file GSTR 3B for the month of July 2017 has been waived, but not the interest on late payment of Tax liability.

GSTR 1 is to be filed by all taxpayers by 5th of September 2017 and GSTR 2 and GSTR 3 to be filed by all taxpayers by 10th and 15th of September 2017 respectively.

Taxpayers who have committed errors in GSTR 3B will be able to put the correct details in GSTR 1-2-3. However, interest will be leviable from all taxpayers who have not discharged their complete Tax liability for July 2017 by 25-08-2017.

Furthermore, vide Circular dated 01-09-2017, procedure for systems based reconciliation of GSTR 1-2 with GSTR 3B has been clarified.

<http://pibphoto.nic.in/documents/rlink/2017/sep/p20179201.pdf>

## **2. CBEC Extends Deadline for Filing GST Returns**

GIC (GST Implementation Committee) has decided to extend date of GSTR 1, GSTR 2 and GSTR 3 for the month of July to 10th, 25th and 30th September 2017 respectively. It has also decided to extend date of GSTR 1, GSTR 2 and GSTR 3 for the month of August to 5th, 10th and 15th October 2017 respectively.

<http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2017/circ33-2017cs.pdf>

## **3. Recommendations made by the GST Council in the 21st meeting at Hyderabad on 9th September, 2017**

The GST Council, in its 21st meeting held at Hyderabad on 9th September 2017, has recommended the various measures to facilitate taxpayers. In view of the difficulties being faced by taxpayers in filing returns, the following revised schedule has been approved:

Return	Tax Period	Revised Due Date
GSTR-1	July, 2017	10-Oct-17
For registered persons with aggregate turnover of more than Rs. 100 crores, the due date shall be 3 <sup>rd</sup> October 2017		
GSTR-2	July, 2017	31-Oct-17
GSTR-3	July, 2017	10-Nov-17
GSTR-4	July-September, 2017	18-Oct-17 (no change)
Table-4 under GSTR-4 not to be filled for the quarter July-September 2017. Requirement of filing GSTR-4A for this quarter is dispensed with.		
GSTR-6	July, 2017	13-Oct-17

Form GSTR-3B will continue to be filed for the months of August to December, 2017. Further, a registered person (whether migrated or new registrant), who could not opt for composition scheme, shall be given the option to avail composition till 30th September 2017 and such registered person shall be permitted to avail the benefit of composition scheme with effect from 1st October, 2017. The registration for persons liable to deduct tax at source (TDS) and collect tax at source (TCS) will commence from 18th September 2017. However, the date from which TDS and TCS will be deducted or collected will be notified by the Council later.

## **4. TDS on interest under Capital Gains Accounts Scheme of deceased depositor**

Ministry of Finance, vide Notification dated 13<sup>th</sup> September, 2017, it has now been specified that in case of deposits under the Capital Gains Accounts Scheme, 1988 where the depositor has deceased:

- (i) TDS on the interest income accrued for and upto the period of death of the depositor is required to be deducted and reported against PAN of the depositor, and
- (ii) TDS on the interest income accrued for the period after death of the depositor is required to be deducted and reported against PAN of the legal heir, unless a declaration is filed under sub-rule(2) of Rule 37BA of the Income-tax Rules, 1962 to that effect.



# TAXATION UPDATES

**5. CBEC has extended the last date for filing the return in FORM GSTR-3B for the months August to December, 2017.**

On the recommendations of the Council, the return for the month, shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as specified below :-

Month	Last Date for filing of return in FORM GSTR-3B
August, 2017	20th September, 2017
September, 2017	20th October, 2017
October, 2017	20th November, 2017
November, 2017	20th December, 2017
December, 2017	20th January, 2018

Further, every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the extended date, on which he is required to furnish the said return.

[http://www.cbec.gov.in/resources/htdocs-cbec/gst/35\\_2017-CT\\_Eng.pdf](http://www.cbec.gov.in/resources/htdocs-cbec/gst/35_2017-CT_Eng.pdf)

**6. CBEC grants extension of time limit for submitting the declaration in FORM GST TRAN-1**

CBEC has granted extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 120A of the Central Goods and Service Tax Rules, 2017. CBEC on the recommendations of the Council, has extended the period for submitting the declaration in FORM GST TRAN-1 till 31st October, 2017. Form GST TRANS – 1 is required to be filed by those taxpayers who have filed their returns for the period till June, 2017 for the previous set of taxes in play, only

they can file to carry forward their input tax credit within 90 days from 1st July, 2017, i.e. by 28th September, 2017, now extended upto 31st October, 2017.

<http://www.cbec.gov.in/resources/htdocs-cbec/gst/order2-cgst.pdf>

**7. Voluntary Reporting of Estimated Current Income and Advance Tax Liability**

CBDT has proposed to create a mechanism for self-reporting of estimates of current income, tax payments and advance tax liability by certain taxpayers (companies and tax audit cases) on voluntary compliance basis. The proposed reporting mechanism is sought to be created by way of inserting a new Rule 39A and Form No. 28AA in the Income-tax Rules, 1962. The proposed draft notification has been placed in public domain on the website of Income Tax Department for inviting comments from stakeholders and general public. In order to address these concerns w.r.t a taxpayer who is liable to discharge part of its tax liability by way of advance tax has to bear additional burden of interest for default of advance tax, in case total advance tax paid for the year falls short of the assessed tax by ten percent or more.

<http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/658/Press-Release-Voluntary-reporting-estimated-current-income-advance-tax-liability.pdf>

**8. Notification Issued For GST Actionable Claim On Branded Food Products**

Ministry of Finance vide Press Release dated 22<sup>nd</sup> September, 2017 has announced the issuance of Notification Nos. 27/2017-central tax(rate), 28/2017-central tax(rate), 27/2017-Integrated tax(rate), 28/2017-Integrated tax(rate), 27/2017-Union territory tax(rate), 28/2017-Union territory tax(rate), giving effect to the Council’s recommendations relating to changes in GST rates on goods and conditions appended thereto.

The GST Council, in its 21st meeting held on 9th September, 2017 at Hyderabad has, inter alia, recommended that for 5% GST rate on cereals, pulses and flours etc. put up in unit container and bearing a registered brand name:



# TAXATION UPDATES

- a) A brand registered as on 15.05.2017 under the Trademarks Act, 1999 shall be deemed to be a registered brand for the purposes of levy of 5% GST, irrespective of whether or not such brand is subsequently deregistered.
- b) A brand registered as on 15.05.2017 under the Copyright Act, 1957 shall also be treated as a registered brand for the purposes of levy of 5% GST.
- c) A brand registered as on 15.05.2017 under any law for the time being in force in any other country shall also be deemed to be a registered brand for the purposes of levy of 5% GST.
- d) A mark or name in respect of which actionable claim is available shall be deemed to be a registered brand name for the purposes of levy of 5% GST.

## **9. CBEC notifies the Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2017**

CBEC has notified the amendments to the Customs Valuation (Determination of Value of Imported Goods) Rules 2007, which may be called the Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2017 and shall come into force on the date of their publication in the Official Gazette. These rules lay that “place of importation” means the customs station, where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse;” and “The value of the imported goods shall include the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation and the cost of insurance to the place of importation”. Further, where the cost of insurance is not ascertainable, such cost shall be 1.125% of free on board value of the goods. It is also clarified that if the goods imported by sea or air and transhipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.

<http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfn-2017/cs-nt2017/csnt91-2017.pdf>

## **10. CBEC extends time limit for submitting Form GST TRAN-1 till 31.10.2017**

CBEC has extended the time limit for submitting the

declaration in Form GST TRAN 1 till 31<sup>st</sup> October, 2017.

## **11. Clarification on Payment of Service Tax in Transitional Period**

Ministry of Finance vide Press Release dated 28<sup>th</sup> September, 2017 has provided clarification on Certain transitional issues arising with respect to payment of service tax after 30th June 2017.

It has been clarified that in cases where service was received before 1-7-2017 and payment for the value of the service was also made before 1-7-2017, but the service tax was paid by 5th /6th July 2017, details of credit should be indicated in Part I of Form ST-3 by filing a revised return. In order to give compliant assesseees who had filed their ST 3 return by the due date or some days later, an immediate and viable window to file revised returns, all ST3 returns for the period 1-4-2017 to 30-6-2017 which have been filed upto and inclusive of the 31<sup>st</sup> day of August 2017, shall be deemed to have been filed on 31-8-2017. Once details of such credit are reflected in the ST-3, the assessee may proceed to fill in the details in Form GST TRAN-1.

In the case of assesseees who were not registered under ACES, who want to make payment of service tax on or after 1-7-2017, they may avail of the category of “non assessee registration” in the registration module of ACES.

## **12. Facility of furnishing Letter of Undertaking extended to more exporters**

Ministry of Finance vide Press Release dated 30<sup>th</sup> September, 2017, To facilitate exports under GST, it has been decided that the facility of furnishing Letter of Undertaking, in place of a bond, for exporting goods or services or both shall be allowed to exporters and no bank guarantee will be required. The relevant notification for this shall be issued in due course.

The issue of cash blockage is expected to be partially addressed by this measure. More measures are under consideration.



## OTHER UPDATES

### ***1. The Code on Wages Bill 2017***

Ministry of Labour and Employment vide Press Release dated 5<sup>th</sup> September, 2017 has announced the Code on Wages Bill 2017. As part of labour law reforms, the Government has undertaken the exercise of rationalisation of the 38 Labour Acts by framing 4 labour codes viz Code on Wages, Code on Industrial Relations, Code on Social Security and Code on occupational safety, health and working conditions.

1. The Code on Wages Bill 2017 has been introduced in Lok Sabha on 10.08.2017 and it subsumes 4 existing Laws, viz. the Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976. After the enactment of the Code on Wages, all these four Acts will get repealed. The Codification of the Labour Laws will remove the multiplicity of definitions and authorities leading to ease of compliance without compromising wage security and social security to the workers.

2. At present, the provisions of the Minimum Wages Act and the Payment of Wages Act do not cover substantial number of workers, as the applicability of both these Acts is restricted to the Scheduled Employments / Establishments. However, the new Code on Wages will ensure minimum wages to one and all and timely payment of wages to all employees irrespective of the sector of employment without any wage ceiling.

3. A concept of statutory National Minimum Wage for different geographical areas has been introduced. It will ensure that no State Government fixes the minimum wage below the National Minimum Wages for that particular area as notified by the Central Government.

4. The proposed payment of wages through cheque or digital/electronic mode would not only promote digitization but also extend wage and social security to the worker. Provision of an Appellate Authority has been made between the Claim Authority and the Judicial Forum which will lead to speedy, cheaper and efficient redressal of grievances and settlement of claims.

5. Penalties for different types of violations under this Code have been rationalized with the amount of fines varying as per the gravity of violations and repeat of the offences. Provision of compounding of offences has been made for those which are not punishable by a penalty of imprisonment.

6. Recently, some news reports have been published regarding

the fixation of minimum wage as Rs. 18000/- per month by the Central Government. It is clarified that the Central Government has not fixed or mentioned any amount as “national minimum wage” in the Code on Wages Bill 2017. The apprehension that minimum wage of Rs. 18000/- per month has been fixed for all employees is, thus incorrect, false and baseless. The minimum wages will vary from place to place depending upon skill required, arduousness of the work assigned and geographical location.

7. Further, the Code on Wages Bill 2017, in the clause 9 (3), clearly states that the Central Government, before fixing the national minimum wage, may obtain the advice of the Central Advisory Board, having representatives from employers and employees. Therefore the Code provide for a consultative mechanism before determining the national minimum wage.

8. Some reports have also been appearing in the media regarding the revised methodology for calculation of minimum wages by enhancing the units from three to six. It was purely a demand raised by Trade Unions in the recent meeting of the Central Advisory Board on Minimum Wages. However it is clarified that such proposal is not part of the Code on Wages Bill.

### ***2. Cabinet approves introduction of the Payment of Gratuity (Amendment) Bill, 2017 in the Parliament***

The Union cabinet has given its approval for introduction of the Payment of Gratuity (Amendment) Bill, 2017 in the Parliament.

The Amendment will increase the maximum limit of gratuity of employees, in the private sector and in Public Sector Undertakings/ Autonomous Organizations under Government who are not covered under CCS (Pension) Rules, at par with Central Government employees i.e. the limit shall be increased from Rs. 10 Lakhs to Rs. 20 Lakhs. The present upper ceiling on gratuity amount under the Act is Rs. 10 Lakh. The provisions for Central Government employees under Central Civil Services (Pension) Rules, 1972 with regard to gratuity are also similar. Before implementation of 7th Central Pay Commission, the ceiling under CCS (Pension) Rules, 1972 was Rs. 10 Lakh. However, with implementation of 7th Central Pay Commission, in case of Government servants, the ceiling now is Rs. 20 Lakhs effective from 1.1.2016.



## OTHER UPDATES

Therefore, considering the inflation and wage increase even in case of employees engaged in private sector, the Government is of the view that the entitlement of gratuity should be revised for employees who are covered under the Payment of Gratuity Act, 1972. Accordingly, the Government initiated the process for amendment to Payment of Gratuity Act, 1972.

### ***3. Centre announces new PPP Policy to promote private investments in affordable housing***

#### ***Central assistance of up to Rs.2.50 lakh per house now available for building houses on private lands***

Ministry of Housing & Urban Affairs vide Press Release dated 21<sup>st</sup> September, 2017 has announced a new PPP Policy for Affordable Housing that allows extending central assistance of up to Rs.2.50 lakh per each house to beneficiaries to be built by private builders even on private lands besides opening up immense potential for private investments in affordable housing projects on government lands in urban areas.

# Glossary

AIFs	Alternative Investment Funds	MCA	Medium Term Notes
CBDT	Central Board of Direct Taxes	MTN	Ministry of Corporate Affairs
CBEC	Central Board of Excise & Customs	MDR	Merchant Discount Rate
CGST	Central Goods and Service Tax	MoU	Memorandum of Understanding
CRC	Central Registration Centre	NCLAT	National Company Law Appellate Tribunal
DB	Dissemination Board	NCLT	National Company Law Tribunal
DSEs	Designated Stock Exchanges	NBFC	Non Banking Financial Company
DoFS	Department of Financial Services	PAN	Permanent Account Number
DRT	Debt Recovery Tribunal	RBI	Reserve Bank Of India
DRAT	Debt Recovery Appellate Tribunal	ROC	Registrar of Companies
ECB	External Commercial Borrowings	RDBs	Rupee Denominated Bonds
ELCs	Exclusively Listed Companies	RDDDBFI	Recovery of Debts due to Banks and financial institutions Act
FCCB	Foreign Currency Convertible Bond	SEBI	Securities and Exchange Board of India
FDI	Foreign direct investment	SFIO	Serious Fraud Investigation Office
FPI	Foreign Portfolio Investors	SICA	Sick Industrial Companies (special provision) Act
GST	Goods and Services Tax	SFT	statements of financial transactions
GIC	GST Implementation Committee	TRAI	Telecom Regulatory Authority of India
IGST	Integrated Goods and Services Tax	UTGST	Union Territory Goods and Service Tax
ITC	Input tax Credit	IBBI	Insolvency and Bankruptcy Board of India
ITR	Income Tax Return	IUs	information utilities
IBC	Insolvency and Bankruptcy Code	KYC	the know-your-customer
IPs	Insolvency Professionals		





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- DAS Audit
- Compliance Management
- Process Improvement
- Cost Reduction
- Working Capital Optimization
- Data Analytics
- Physical Verification
- Forensics

### Financial Reporting & Compliance

- Accounting & Reporting
- Secretarial
- Tax Consulting (Direct & Indirect)

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