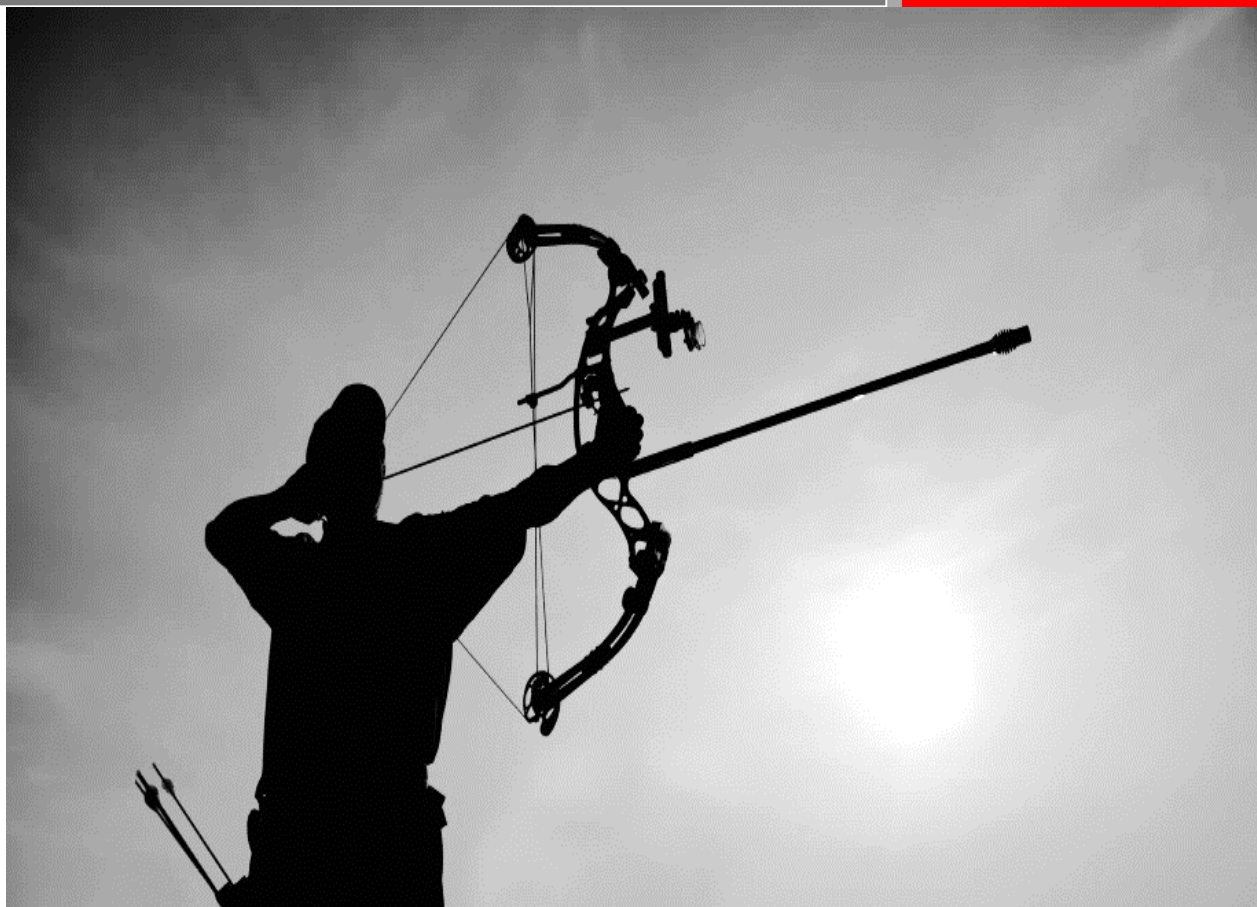




July, 2016

# NEWS CHRONICLE



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***We care more than others think is wise....***

***We dream more than others think is practical....***

***We expect more than others think is possible....***

**Editor: Sunaina Jhingan**  
**(Knowledge Manager with Acquisory)**

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## *NCLT and NCLAT Rules 2016 – A Transformation in the Corporate Law Judiciary*



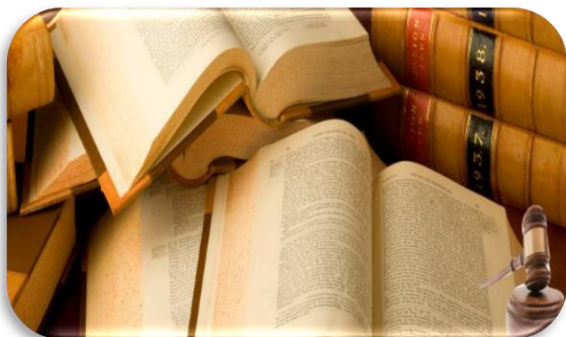
*“National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) under the Companies Act, 2013 was notified by the Ministry of Corporate Affairs (MCA) on 1<sup>st</sup> June, 2016. For the working of the provisions of the sections for establishment of NCLT and NCLAT, the Government has now provided with the rules governing the functioning of the tribunals.”*

The establishment of National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) is a paradigm shift in the corporate law judiciary with regard to the dispute resolution. The tribunals are established with the intention to adjudicate all disputes/issues pertaining to companies in India under one umbrella. The basic objective of constituting these tribunals is to provide a simpler, speedier and more accessible dispute resolution mechanism.

### ***Constitution of NCLT and its Functioning***

The Government of India, Ministry of Corporate Affairs vide Notification dated 1<sup>st</sup> June, 2016 announced the constitution of NCLT and NCLAT thus dissolving the Company Law Board under the Companies Act, 1956. The NCLT is a quasi – judicial body in India that adjudicates the issues related to Companies in India. The NCLT presently has eleven benches, two at New Delhi (one being the principal bench) and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.

The powers of NCLT under the Companies



Source- <http://www.topbusinessanalysis.com/recruitment/tips-to-ensure-you-get-hired-after-passing-the-bar.html>

Act to adjudicate proceedings are-

- All the cases Initiated before the Company law board under the Companies Act, 1956
- All proceedings pending before the Board for Industrial and Financial Reconstruction, including those pending under the Sick Industrial Companies (Special Provisions) Act 1985;
- Appeals or any other proceedings pending before the Appellate Authority

for Industrial and Financial Reconstruction; and

- fresh proceedings pertaining to claims of oppression and mismanagement of a company, winding up of companies and all other powers prescribed under the Companies Act.

Decisions of the NCLT may be appealed to the National Company Law Appellate Tribunal.

***“NCLT shall have the powers to adjudicate all the proceedings held under CLB, BIFR and any appeals pending before Appellate Authority for Industrial and Financial Reconstruction, SICA and claims or proceedings w.r.t. oppression and mismanagement of a company, winding up of companies.”***

The tribunal shall consist of a President and such number of Judicial and Technical Members as may be required. The principal bench shall be located at New Delhi which shall be presided over by the President. The powers of the Tribunal shall be exercised by Benches constituting of two members, one being the Judicial member and the other a Technical member.

Under the NCLT Rules, 2016 the tribunal shall have a President, Registrar and a Secretary. The President shall have the powers beside provided under the Companies Act, 2013.

**Provisions of the Act made effective with the constitution of the Tribunals:**

Section	Matter	Particulars	Form/Details to be provided
<b>Section 7(7) [except clause (c) and (d)]</b>	Incorporation of Companies	In cases where the Company has been incorporated by furnishing false or incorrect information the tribunal has powers to pass orders as it may deem fit. However the power to remove the name and winding up of the company continues with the registrar of companies (ROC) and High Courts respectively.	Form NCLT-1
<b>Section 14 (1) and (2)</b>	Alteration of Articles	Approval of the Tribunal shall be sought for conversion of public company to private company.	Form No. NCLT-1
<b>Section 55(3)</b>	Issue and Redemption of Preference Shares	In cases where the Company is not in a position to redeem or pay dividend on preference shares, the company may issue fresh redeemable preference shares, with the approval of the Tribunal	Form No. NCLT-1
<b>Section 61(1)(b)</b>	Power of limited company to alter its share capital	Consolidation or division of share capital which results in the changes in voting percentage of shareholders shall be done only with approval of the Tribunal.	Form No. NCLT. 1
<b>Section 62(4),(5) and (6)</b>	Further issue of share capital	If need arises for conversion of debentures issued or loan obtained from Government by a Company into shares and terms of such of conversion are not acceptable to the Company, appeal can be made with the Tribunal.	Form – NCLT-9
<b>Section 71 (9) to (11)</b>	Debentures	In cases where the company fails to redeem the debentures or pay interest on maturity, a petition may be filed with the Tribunal.	Form No. NCLT. 11

<b>Section 75</b>	Damages for Fraud	The tribunal may grant extension of time to companies which fail to repay deposits and interest thereon in terms of Section 74(2)	Form NCLT-1
<b>Section 97, 98 and 99</b>	Power of the Tribunal to call annual general meetings and meetings of Members	The Tribunal may on an application made by a member or director call for annual general meetings or members meetings	Form No. NCLT. 1
<b>Section 119(4)</b>	Inspection of minute books of general meetings	If any member is denied inspection or copies of minutes book of general meetings, the Tribunal has powers to direct immediate inspection or direct the copies be provided to the member.	Form No NCLT-9
<b>Section 130</b>	Reopening of Accounts	Financial Accounts of the company shall be reopened only by an order made by the Tribunal.	Form No. NCLT-1
<b>Section 131</b>	Voluntary revision of financial statements or Boards' report	Approval of Tribunal shall be sought for voluntary revision of financial statements and Boards' report.	Form No. NCLT-1
<b>Section 140 Second proviso to sub-section (4) and sub-section (5)</b>	Removal, resignation of auditor and giving of special notice	Tribunal shall act on an application made for removal of auditor or <i>suo moto</i> pass orders for removal of auditor.	Form No. NCLT-1
<b>Section 169(4)</b>	Removal of Directors	Tribunal shall act on an application made for removal of director.	Form No. NCLT-1
<b>Section 213</b>	Investigation into company's affairs in other cases	Tribunal may order investigations into the affairs of the company based on applications received from the concerned parties.	Form No. NCLT-1
<b>Section 216(2)</b>	Investigation of ownership of company	Tribunal may direct investigation into membership/ownership of the company.	Form No. NCLT-1



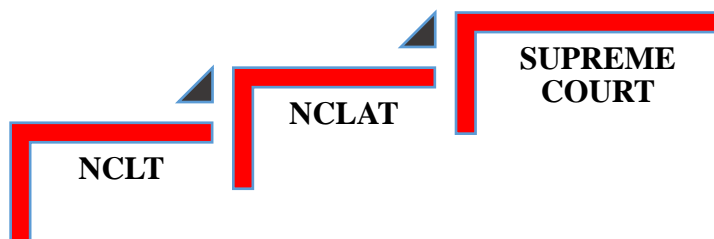
<b>Section 218</b>	Protection of employees during investigation	Change in terms of employment, discharge, suspension, removal of employees during the course investigations requires prior approval of Tribunal	Form No. NCLT-1
<b>Section 221</b>	Freezing of assets of company on inquiry and investigation	The tribunal may restrict transfer, removal or disposal of assets for a period not exceeding three years.	Form No. NCLT-1
<b>Section 222</b>	Imposition of restriction upon securities	The tribunal may impose restriction on transfer of securities for a period not exceeding three years.	Form No. NCLT-1
<b>Section 224(5)</b>	Action to be taken in pursuance of inspector's report	In case of fraud, the Tribunal shall pass appropriate orders with regard to disgorgement of assets and also against the person found guilty.	Form No. NCLT-1
<b>Sections 241, 242 [except clause (b) of sub-section (1), clause (c) &amp; (g) of sub-section (2)], 243, 244, and 245</b>	Prevention of Oppression and Mismanagement	The tribunal shall pass necessary orders in cases of mismanagement, oppression and class action suits.	Form No. NCLT-1 Form No. NCLT-9 – Section 245(2)
<b>Reference of word 'Tribunal' in sub-section (2) of section 399</b>	Inspection, production and evidence of documents kept by Registrar	–	Form No. NCLT- 9
<b>Sections 415 to 433 (both inclusive)</b>	NCLT and NCLAT	Provisions related to constitution, functioning of benches orders and appeals NCLT and NCLAT orders have been dealt with in these sections.	
<b>Section 434(1)(a), (b) and (2)</b>	Transfer of certain pending proceedings	All matters, proceedings or cases pending before the Company Law Board initiated under the Companies Act, 1956 shall stand transferred to the Tribunal. Appeals against the orders of the Company Law Board passed before the constitution of the NCLT would continue to be made before relevant High Court.	



<b>Section 441</b>	Compounding of certain offences	The Tribunal shall compound offences where penalty imposed exceeds Rs.5 lakh or more and cases where maximum amount of penalty imposed does not exceed Rs.5 lakhs shall be dealt with by the Regional Director or such other officer authorised by the Central Government.	
<b>Section 466</b>	Dissolution of Company Law Board and consequential provisions	Provisions regarding dissolution of Company Law Board.	

### ***Appeals:***

All the appeals against any order of the NCLT may be filed by the aggrieved parties with the NCLAT and thereafter with the Supreme Court thus eliminating High Courts from the chain of adjudication making it more fast in terms of the passing of speedy judgements. However, appeals against the orders of the CLB before the constitution of the NCLT would continue to be made before relevant High Court.



While matters like class action suits, alteration of articles and may more will now be governed by NCLT, others relating to winding-up, compromise, amalgamation and capital reduction will continue to be under the purview of the high courts. The matters handled by the Board of Industrial and Financial Reconstruction (BIFR), the Appellate Authority for Industrial and Financial Reconstruction and High Courts would eventually be transferred to NCLT. With this, NCLT and NCLAT are indented to act as a quasi-judicial body to adjudicate all disputes pertaining to Indian companies. The primary objective is to provide a specialised dispute resolution mechanism for Indian corporates which is easily accessible, fast and efficient. It is to be seen as to how smooth the transition will happen.

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## ***Brexit – An Open Challenge for The Indian Economy***

Brexit is the withdrawal of the United Kingdom (UK) from the European Union (EU), it refers to the June 23, 2016 referendum by British voters to exit the European Union. The referendum quivered global markets, including currencies, causing the British Pound to fall to its lowest level in decades against a basket of other global currencies. The supporters of Brexit had based their opinion on a large number of factors ranging from the global competitiveness of British Businesses to concerns about immigration. Popular support of Brexit had varied over time, but the 23<sup>rd</sup> June vote demonstrated that UK citizens believed that Great Britain can survive without being part of the EU and the related benefits that arose for the UK out of being a member of the EU.



Source- <https://www.cctinvestments.com/britain-out-of-the-european-union/>

***“Withdrawal of United Kingdom (UK) (Britain) from the European Union (EU) is termed as Brexit, it is term that refers to the June 23, 2016 referendum where the British voters agreed to exit the EU. The referendum shook the global markets leading to downfall in the currency British pound to its lowest level in decades”***

### ***Economic Effects***

With the advent of globalization there is more correlation seen between the countries. If there is a disturbance in one country, it will have an impact on the world economy as a whole and especially when the country is one of the developed economies that has the major control over the trade and other economic functioning. Thus it can be seen that the Brexit will have an impact on the global growth. It is all together a big blow when one can see that more countries are moving towards the

multilateral trade agreements. It will also estrange the investors and the capital which will move from risky markets to safer havens.

Prior to the 2016 referendum, the UK treasury estimated that being in the EU has a strong positive effect on trade and as a result the UK's trade would be worse off if it left the EU. The Brexit impact is not only limited to Britain, but also European countries. London has always been financial hub, which gave access to capital markets of the world to Europe. But with Brexit, European Union may have restricted access to the London Financial Market. In all likelihood, access to this market will form a key part of trade negotiations. It will then take two years or more to work through exit modalities, a time in which a lot of things can be brought back to normal, including trade relations.

The major exporting countries such as China and India may get affected as EU is one of the major export market. The referendum rode on many components – anti immigration, increasing protectionism etc. and it is expected that these sentiments will increase in other parts as well.

### ***Impact on India***

UK has always been the gateway for Indian Companies to access the European companies due to its access to financial markets in London and ease of doing business with Europe, from UK. India has shown a positive trend towards trade surplus of \$3.64 billion in terms of bilateral trade with Britain. The total trade stood at \$14.02 billion in FY16, out of which \$8.83 billion was in exports and \$5.19 was in imports.

For the month of April 2016 the exports to Britain stood at 17.66%(USA 17.80%) of the total exports. In terms of imports, India imports only 1.45% of its net imports from UK. If we look at exports from India to UK, the major exports are textiles and clothing,

*“The Brexit referendum may have an impact on the overall trade of the Country, it is seen that major exporting countries India and China may be more effected as EU is one of the major export market.”*

followed by machinery and auto ancillaries. India's major exports in terms of pharma are US, UK followed by Europe.

### ***Macroeconomic Impact***

Brexit is unlikely to have a notable impact on India GDP Growth in fiscal 2017 and it is forecasted a growth of 7.9% due to the agriculture sector as swing factor. It's the spatial and temporal distribution of rains in July and August that will matter more to the domestic growth. It is also

observed that there shall be not much downside to India's Exports. UK basically accounts for 3% of merchandise exports from India. Further, India's total trade (exports and imports) with UK is 2% of its external trade.

It can be seen that the rupee may weaken at per dollar by the end of the fiscal year. Changes in the value of rupee with regard to the pound won't be the only factor determining India's trade competitiveness with Britain. The currency movements of India's trade competitors with respect to the pound, along with changes in domestic costs and productivity, will be another factor.

***"India shall see a notable impact of Brexit which shall be related to trade, capital flows, immigration and free border access to the Indian Companies to operate in UK."***

Also expected that there will be intermittent mini fights as Brexit negotiations proceed as the same shall be treated as a process instead of negotiations which will take some time, and Article 50 which makes the provisions for countries that want to leave the European Union (EU), has not been invoked by Britain yet.

India is the third largest source of FDI in UK with Britain having more than 800 Indian Companies. With Brexit, the business of these companies may be affected and due to

the exchange rate fluctuations the bottom line of these companies may suffer.

As India considers Britain as a gateway to EU, now with Britain opting out, India loses the advantage. Hence the need for free border access arises. The free trade agreements (FTA) that India was negotiating with EU will not have the same impact as the same was happening since 2007, India will have to work out with Britain separately another bilateral trade agreement. UK holds almost 17% of India's IT Export and with Brexit the overhead costs are going to increase.



Source- <http://smepost.com/news/10-ways-brexit-will-affect-small-businesses-in-india/10787>

It is predicted that due to Brexit the India IT Exports will have all together negative influence. Also the pound will depreciate and will have an effect on the returns of these companies.

The immigration will also become tough for the Indians as one of the reason for Brexit was the immigration of people from other EU

Countries, thus this will impact the immigration to UK for Indians.

It is seen that UK and EU together accounts for 23.7% of rupee's effective exchange rate. Brexit would lead to outflow of foreign portfolio investments and this may further

weaken the rupee. The RBI on the other hand may have to step in to try and maintain a balance in order to not let the fear of an interest hike spike the markets.

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## **LEGAL UPDATES**

### **CORPORATE**

#### **RBI**



#### **1. Master Direction – Operational Guidelines for Primary Dealers**

*Reserve Bank of India (RBI) vide Notification No. RBI/IDMD/2016-17/29 Master Direction IDMD.PDRD.01/03.64.00/2016-17 dated 1<sup>st</sup> July, 2016 has issued the Master Direction with regard to the Operational guidelines for primary dealers.*

In 1995, the Reserve Bank of India (RBI) introduced the system of Primary Dealers (PDs) in the Government Securities (G-Sec) Market. The objectives of the PD system are to strengthen the infrastructure in G-Sec market, development of underwriting and market making capabilities for G-Sec, improve secondary market trading system and to make PDs an effective conduit for

open market operations (OMO). As on June 30, 2015, there are seven standalone PDs and thirteen banks authorized to undertake PD business departmentally.

Thus in this regard, The Reserve Bank of India has, from time to time, issued a number of guidelines/instructions to the Primary Dealers (PDs) with respect to their operations. The Master Direction incorporates the updated guidelines/instructions/circulars on the subject. A list of circulars finding reference in this Master Direction is enclosed in Annex-XIV and XV. The Direction will be updated from time to time as and when fresh instructions are issued. The banks undertaking PD activities departmentally should follow the extant guidelines applicable to the banks on capital adequacy requirements and risk management.

[https://rbidocs.rbi.org.in/rdocs/content/pdfs/29MDPD010716\\_AN.pdf](https://rbidocs.rbi.org.in/rdocs/content/pdfs/29MDPD010716_AN.pdf)

#### **2. Master Directions on Frauds – Classification and Reporting by commercial banks and select FIs**

*Reserve Bank of India (RBI) vide Notification No. RBI/DBS/2016-17/28 DBS.CO.CFMC.BC.No.1/23.04.001/2016-17 dated 1<sup>st</sup> July, 2016 has issued Master Direction on Frauds – Classification and Reporting by commercial banks and select FIs.*



These directions are issued with a view to providing a framework to banks enabling them to detect and report frauds early and taking timely consequent actions like reporting to the Investigative agencies so that fraudsters are brought to book early, examining staff accountability and do effective fraud risk management. These directions also aim to enable faster dissemination of information by the Reserve Bank of India (RBI) to banks on the details of frauds, unscrupulous borrowers and related parties, based on banks' reporting so that necessary safeguards / preventive measures by way of appropriate procedures and internal checks may be introduced and caution exercised while dealing with such parties by banks.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10477&Mode=0#4>

### **3. Master Directions on Relief/Savings Bonds**

*Reserve Bank of India (RBI) vide Notification No. RBI/IDMD/2016-17/30 IDMD.CDD No.2989/13.01.299/2016-17 dated 1<sup>st</sup> July, 2016 has issued Master Directions on Reliefs/Savings Bonds.*

The directions facilitate availability of all the current operative instructions on the above subject at one place and will be updated suitably and simultaneously whenever there is a change in the rules/regulations or there is a change in the policy.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10479&Mode=0#MD>

### **4. Master Direction - on Risk Management and Inter-Bank Dealings**

*Reserve Bank of India (RBI) vide Notification No. RBI/FMRD/2016-17/31 FMRD Master Direction No. 1/2016-17 dated 7<sup>th</sup> July, 2016 has issued the Master Direction on risk management with regard to Foreign Exchange Derivative Contracts, Overseas Commodity & Freight Hedging, Rupee Accounts of Non-Resident Banks and Inter-Bank Foreign Exchange Dealings etc.*

Within the contours of the Regulations, the Reserve Bank issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers / constituents with a view to implementing the regulations framed.

Instructions issued in respect of Foreign Exchange Derivative Contracts, Overseas Commodity & Freight Hedging, Rupee Accounts of Non-Resident Banks and Inter-Bank Foreign Exchange Dealings etc. have been compiled in this Master Direction.

[https://rbidocs.rbi.org.in/rdocs/content/pdfs/MD3105072016\\_A.pdf](https://rbidocs.rbi.org.in/rdocs/content/pdfs/MD3105072016_A.pdf)



## **5. Amendment to Master Direction on KYC – Operationalisation of Central KYC Registry (CKYCR) and KYC norms for Foreign Portfolio Investors (FPIs)**

*Reserve Bank of India (RBI) vide Notification No. RBI/2016-2017/11 DBR.AML.BC.No.1/14.01.001/2016-17 dated 8<sup>th</sup> July, 2016 has made amendment to the Master Direction on KYC – Operationalisation of Central KYC Registry (CKYCR) and KYC norms for Foreign Portfolio Investors (FPIs).*

The Reserve Bank of India has made modification to the existing Section 57 (CDD Procedure and sharing KYC information with Central KYC Records Registry (CKYCR)) of the Reserve Bank of India (Know Your Customer (KYC)) Directions, 2016 Master Direction No.DBR.AML.No.81/14.01.001/2015-16 dated February 25, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10497&Mode=0>

## **6. Master Direction - Priority Sector Lending – Targets and Classification**

*Reserve Bank of India (RBI) vide Notification No. RBI/FIDD/2016-17/33 Master Direction FIDD.CO.Plan.1/04.09.01/2016-17 dated 7<sup>th</sup> July, 2016 has issued Master Direction on Priority Sector Lending – Targets and Classification.*

The guidelines on priority sector lending were revised vide circular dated April 23, 2015. The priority sector loans sanctioned under the guidelines issued prior to April 23, 2015 will continue to be classified under priority sector till repayment/maturity/renewal.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10497&Mode=0>

## **7. Master Direction - Regional Rural Banks - Priority Sector Lending – Targets and Classification**

*Reserve Bank of India (RBI) vide Notification No. RBI/FIDD/2016-17/34 Master Direction FIDD.CO.Plan.2/04.09.01/2016-17 dated 7<sup>th</sup> July, 2016 has issued Master Direction on Regional Rural Banks - Priority Sector Lending – Targets and Classification.*

The revised guidelines on priority sector lending by Regional Rural Banks were made operational with effect from January 1, 2016. Accordingly, the priority sector loans sanctioned under the guidelines issued prior to this date will continue to be classified under priority sector till repayment/ maturity/ renewal.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10496&Mode=0>

**8. Master Direction on Money Market Instruments: Call/Notice Money Market, Commercial Paper, Certificates of Deposit and Non-Convertible Debentures (original maturity up to one year)**

Reserve Bank of India (RBI) vide Notification No. RBI/FMRD/2016-17/32 FMRD.Master Direction No.2/2016-17 dated 7<sup>th</sup> July, 2016 has issued Master Direction on Money Market Instruments: Call/Notice Money Market, Commercial Paper, Certificates of Deposit and Non-Convertible Debentures (original maturity up to one year).

The Reserve Bank of India has, from time to time, issued a number of guidelines/instructions/directives to the eligible market participants in regard to call/notice money market, Commercial Paper (CP), Certificates of Deposit (CD) and Non-Convertible Debentures (NCDs) of original or initial maturity up to one year.

To enable market participants to have current instructions at one place, a Master Direction incorporating all the existing guidelines /instructions/directives on the subject has been prepared for reference of the market participants and others concerned.

**<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10495&Mode=0>**

**9. Discontinuation of Reporting of Bank Guarantee on behalf of service importers**

Reserve Bank of India (RBI) vide AP DIR Circular No. 1 dated 7<sup>th</sup> July, 2016 has reviewed the reporting requirements under the Master Direction No.8 dated January 01, 2016 and Master Direction on ‘Reporting under Foreign Exchange Management Act, 1999’ dated January 1, 2016.

Under these directions on ‘Other Remittance Facilities’ in terms of which, AD Category-I banks were permitted to issue guarantees in favour of a non-resident service provider on behalf of their resident customers importing services, subject to the conditions laid therein. AD Category-I banks were also advised vide para no.1, Part X of the Master Direction on ‘Reporting under Foreign Exchange Management Act, 1999’ dated January 1, 2016, to report to the Chief General Manager-in- Charge, Foreign Exchange Department, Foreign Investments Division (EPD), Reserve Bank of India, Central Office, Mumbai-400001 details about invocation of bank guarantee for service imports.

Thus on a review of the reporting requirements and to reduce the burden of compliance, AD Category I banks are advised to discontinue submission of such reports with immediate effect. They may, however, maintain records of such invocations and furnish the required details to RBI whenever sought.

[https://rbi.org.in/Scripts/BS\\_ViewMasDirections.aspx?id=10202](https://rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10202)

#### **10. Investments in Non-SLR instruments by State / Central Co-operative Banks**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/14 DCBR.BPD.BC.No. 01/19.51.026/2016-17 dated 14th July, 2016 has reviewed the guidelines with regard to Investments in Non-SLR instruments by State / Central Co-operative Banks, thus it has now been decided that the investments in Non-SLR instruments by State / Central Co-operative Banks shall be made according to the conditions provided under the Notification.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10505&Mode=0>

#### **11. Facility for Exchange of Soiled/ Mutilated/ Imperfect Notes**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/15 DCM (NE) No.120/08.07.18/2016-17 dated 14<sup>th</sup> July, 2016 has modified the procedure with regard to Exchange of Soiled/Mutilated/Imperfect Notes in order to improve customer service and enhance customer protection.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10506&Mode=0>

#### **12. Sovereign Gold Bonds 2016-17 – Series I**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/18

IDMD.CDD.No.2020/14.04.050/2016-17 dated 14<sup>th</sup> July, 2016 has announced that the Sovereign Gold Bonds 2016 – Series I (“the Bonds”) will be open for subscription from July 18, 2016 to July 22, 2016. The Government of India may, with prior notice, close the Scheme before the specified period. The other terms and conditions of the issuance of the bonds are provided in the above mentioned notification.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10507&Mode=0>

#### **13. Sovereign Gold Bonds, 2016-17 - Operational Guidelines**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/19 IDMD.CDD.No.112/14.04.050/2016-17 dated 14<sup>th</sup> July, 2016 has provided Operational guidelines with regard to Sovereign Gold Bonds, 2016-17.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10508&Mode=0>

#### **14. Master Circular – Mobile Banking transactions in India – Operative Guidelines for Banks**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/17 DPSS.CO.PD.Mobile Banking.No./2/02.23.001/2016-2017 dated 1st July, 2016 has issued the Master Circular containing the guidelines on the Mobile Banking. The Master Circular has been prepared to facilitate the banks and other

stakeholders to have all the extant instructions on the subject at one place.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10509&Mode=0>

***15. Master Circular – Policy Guidelines on Issuance and Operation of Pre-paid Payment Instruments in India***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-2017/16 DPSS.CO.PD.PPI.No.01/02.14.006/2016-17 dated 1st July, 2016 has issued Master Circular on policy guidelines on Issuance and Operation of Pre-paid Payment Instruments in India. This Master Circular has been prepared to facilitate the Prepaid Payment Instrument Issuers, System Providers, System Participants and all other Prospective Prepaid Payment Instrument Issuers to have all the extant instructions on the subject at one place.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10510&Mode=0>

***16. Master Circular – Facility for Exchange of Notes and Coins***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/21 DCM (NE) No. G-1/08.07.18/2016-17 dated 18<sup>th</sup> July, 2016 has issued a revised version of Master Circular on facility for exchange of Notes and Coins.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10516&Mode=0>

***17. Master Circular – Detection and Impounding of Counterfeit Notes***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/22 DCM (FNVD) G-6/16.01.05/2016-17 dated 20<sup>th</sup> July, 2016 has issued the Master Circular related to detection and impounding of Counterfeit Notes.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10517&Mode=0>

***18. Master Circular –Scheme of Penalties for bank branches based on performance in rendering customer service to the members of public***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/23 DCM (CC) No.G-3/03.44.01/2016 – 17 dated 20<sup>th</sup> July, 2016 has issued the Master Circular on Scheme of penalties for bank branches based on performance in rendering customer service to the members of public.

The scheme of Penalties for bank branches including currency chests has been formulated in order to ensure that all bank branches provide better customer service to members of public with regard to exchange of notes and coins, in keeping with the objectives of Clean Note Policy.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10518&Mode=0>

**19. Master Direction on Levy of Penal Interest for Delayed Reporting/Wrong Reporting/Non-Reporting of Currency Chest Transactions and Inclusion of Ineligible Amounts in Currency Chest Balances**

*Reserve Bank of India (RBI) vide Notification No. RBI/DCM/2016-17/35 Master Direction DCM(CC) No.G - 2/03.35.01/2016-17 dated 20<sup>th</sup> July, 2016 has issued the master direction on Levy of Penal Interest for Delayed Reporting/Wrong Reporting/Non-Reporting of Currency Chest Transactions and Inclusion of Ineligible Amounts in Currency Chest Balances.*

In terms of the Preamble, under Section 45 of the RBI Act, 1934 and 35 A of the Banking Regulation Act, 1949, the Bank issues guidelines / instructions for realising the objectives of our Clean Note Policy. With a view to sustain these efforts and ensure discipline among the banks on timely and accurate reporting of currency chest transactions, RBI issued instructions on the subject.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10519&Mode=0>

**20. Master Direction on Currency Distribution & Exchange Scheme (CDES) based on performance in rendering customer service to the members of public**

Reserve Bank of India (RBI) vide Notification No. RBI/DCM/2016-17/36 Master Direction DCM (CC) No.G-4/03.41.01/2016-17 dated 20<sup>th</sup> July, 2016 has issued the master direction on Currency Distribution & Exchange Scheme (CDES) based on performance in rendering customer service to the members of public.

RBI has formulated a scheme of incentives titled Currency Distribution and Exchange Scheme (CDES) in order to ensure that all bank branches provide better customer services to member of public.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10520&Mode=0>

**21. Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools and LCR Disclosure Standards**

*Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/25 DBR.BP.BC.No.2/21.04.098/2016-17 dated 21<sup>st</sup> July, 2016 has reviewed the Basel III framework on liquidity standards with regard to Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools and LCR Disclosure Standards.*

In the present scenario, the assets allowed as the Level 1 High Quality Liquid Assets (HQLAs) for the purpose of computing the LCR of banks, inter alia, include Government securities in excess of the minimum SLR requirement and, within the mandatory SLR



requirement, Government securities to the extent allowed by RBI under Marginal Standing Facility (MSF) [presently 2 per cent of the bank's NDTL] and under Facility to Avail Liquidity for Liquidity Coverage Ratio (FALLCR) [presently 8 per cent of the bank's NDTL]. It has now been decided that, in addition to the above-mentioned assets, banks will be permitted to reckon government securities held by them up to another 1 per cent of their NDTL under FALLCR within the mandatory SLR requirement as level 1 HQLA for the purpose of computing their LCR. Hence, the total carve-out from SLR available to banks would be 11 per cent of their NDTL. For this purpose, banks should continue to value such reckoned government securities within the mandatory SLR requirement at an amount no greater than their current market value (irrespective of the category of holding the security, i.e., HTM, AFS or HFT).

## **22. Master Direction - Lending to Micro, Small & Medium Enterprises (MSME) Sector**

Reserve Bank of India (RBI) vide Notification No. RBI/FIDD/2016-17/37 Master Direction FIDD.MSME & NFS.3/06.02.31/2016-17 dated 21<sup>st</sup> July, 2016 has issued the Master Direction on Lending to Micro, Small and Medium Enterprises. The provisions of these Directions shall apply to every Scheduled Commercial Bank {excluding Regional Rural Banks (RRBs)} licensed to operate in India by the Reserve Bank of India.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10523&Mode=0>

## **23. Priority Sector Lending –Targets and Classification- Bank loans to MFIs for on-lending - Qualifying asset - Revised loan limit**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/27 FIDD.CO.Plan.BC.No.8/04.09.001/2016-17 dated 28th July, 2016 has increased the limit of loans extended by Non-Banking Financial Company- Micro Finance Institutions (NBFC-MFIs) for which the tenure of the loan shall not be less than 24 months, to ₹ 30,000/- from the earlier limit of ₹ 15,000/-.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10530&Mode=0>

## **24. Guidelines for Relief Measures by NBFCs in areas affected by Natural Calamities**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/28 DNBR (PD) CC.No.083/03.10.001/2016-17 dated 28th July, 2016 has extended the guidelines provided to banks in regard to matters relating to relief measures to be provided in areas affected by natural calamities vide FIDD.No.FSD.BC.52/05.10.001/2014-15 dated March 25, 2015, FIDD No.FSD.BC.12/05.10.001/2015-16 dated August 21, 2015 and FIDD.No.FSD.BC.27/05.10.001/2015-16 dated June 30, 2016 to NBFCs, in areas affected by natural calamities as identified

for implementation of suitable relief measures by the institutional framework viz., District Consultative Committee/ State Level Bankers' Committee.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10531&Mode=0>

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10533&Mode=0>

### ***25. Half yearly/Quarterly Review of Accounts of Public Sector Banks***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/29 Ref.DBS.ARS.No.BC.2/08.91.001/2016-17 dated 28th July, 2016 has revised the reporting format Half yearly/Quarterly Review of Accounts of Public Sector Banks.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10532&Mode=0>

### ***26. Retail Participation by Demat Account Holders in the Government Securities Market: Access to NDS-OM Platform***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/30 Ref No. FMRD.DIRD.3/14.03.07/2016-17 dated 28th July, 2016 has decided to allow Demat Account Holders of NSDL and CDSL to put through trades in Government Securities on the Negotiated Dealing System – Order Matching (NDS-OM) platform through their respective Depository Participant (DP) bank which is an Subsidiary General Ledger (SGL) Account Holder and a direct member of NDS-OM and Clearing Corporation of India Ltd. (CCIL).



## **MCA**



### ***1. Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2016***

The Ministry of Corporate Affairs (MCA) vide Notification dated 30<sup>th</sup> June, 2016 has made amendment to the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. The amended rules may be called as Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2016.

The Key Managerial Personnel Namely Chief Executive Officer (CEO), Company Secretary (CS) and Chief Financial Officer (CFO) are now being omitted to file Return of appointment of Managerial Personnel under Form MR 1.

**[http://www.mca.gov.in/Ministry/pdf/AmendmentRules\\_01072016.pdf](http://www.mca.gov.in/Ministry/pdf/AmendmentRules_01072016.pdf)**

### ***2. Relaxation in Rules for Appointment of Statutory auditor - Companies (Removal of Difficulties) Third Order, 2016.***

The Ministry of Corporate Affairs (MCA) vide Notification dated 30<sup>th</sup> June, 2016 has made amendment to the Rules for appointment of statutory auditor under section 139 of the Companies Act, 2013.

It is observed that the difficulties have arisen regarding compliance with the /provisions of third proviso to sub-section (2) of section 139 in so far as they relate to the period within which companies would comply with provisions of sub-section (2) of section 139 of the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the companies Act, 2013 (18 of 2013), the central Government hereby makes the following Order to remove the above said difficulties, namely:- Companies (Removal of Difficulties) Third Order, 2016. It shall be deemed to have come into force from 1<sup>st</sup> April, 2014.

In the Companies Act, 2013, in section '139, in sub-section (2), for the third proviso, the following proviso shall be substituted, namely:-

"Provided also that every company, existing on or before the commencement of this Act which is required to comply with the provisions of this sub-section, shall comply with requirements of this sub-section within

a period which shall not be later than the date of the first annual general meeting of the company held, within the period specified under sub-section (1) of section 96, after three years from the date of commencement of this Act."

### **3. Companies (cost records and audit) Amendment Rules, 2016**

MCA has notified the Companies (Cost Records and Audit) Amendment Rules, 2016. The Amendment Rules have modified the definition of 'cost audit report'. Further, it has also amended Rule 3 comprising of the Table containing the Sectors/Industry/Product/Service on which the maintenance of the Cost Records shall apply. It further notifies that these Rules shall not apply to a Company which is covered under Rule 3 and is engaged in generation of electricity for captive consumption through Captive Generating Plant. Now, a Cost Auditor before such appointment shall provide the written consent along with the Certificate certifying his eligibility. Further, now such cost statements shall be approved by the Board of Directors before they are signed on behalf of the Board by any of the director authorised by the Board, for submission to the Cost Auditor to report thereon, that is, now the cost audit report shall be duly signed by the Board of Directors. Also, the Companies shall file the Form CRA-4, that is, the cost audit report, in XBRL Format in the manner as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015.

The Ministry of Corporate Affairs (MCA) vide Notification dated 14<sup>th</sup> July, 2016 has amended the Companies (cost records and audit) rules, 2014. These rules may be called Companies (cost records and audit) Rules, 2016.

<http://www.mca.gov.in/Ministry/pdf/Rules15072016.pdf>

### **4. Companies (Share Capital and Debentures) Third Amendment Rules, 2016**

MCA has notified the Companies (Share Capital and Debentures) Third Amendment Rules, 2016. In the notification, the cap on issue of sweat equity shares for Start Up Companies has been raised two fold upto 50% of its paid-up capital upto 5 years from the date of its incorporation or registration. Further, MCA has notified in the case of issue of convertible securities offered on preferential basis, the manner of determination of the price of resultant shares. Amongst many other changes, the requirement to make the securities allotted by way of preferential offer fully paid up at the time of their allotment in Rule 13 has been omitted therefrom. The amended rules shall come into force on the date of their publication in the Official Gazette.

<http://www.mca.gov.in/Ministry/pdf/Rules19072016.pdf>

### **5. Relaxation to Foreign Company which is an 'Airline Company'.**

MCA has notified the Relaxation to Foreign Company which is an 'Airline Company'. MCA has clarified that it will be deemed to

be a sufficient compliance u/s 381(1)(a) by a foreign company which is an 'airlines company' having a share capital, if in respect of the period ending on or after March 31, 2016, it submits, documents relating to copies of latest consolidated financial statements of the parent Foreign Company, as submitted by it to the prescribed authority in the country of its incorporation and in respect of its Indian Business operations, a statement of receipts and payments for the financial year, duly authenticated by a Chartered Accountant in India. All documents required to be filed under Rule 4(2) of Companies (Registration of Foreign Companies) Rules, 2014. Further, the company shall, furnish to the Central Government such information with regard to its accounts as the Central Government may require.

[http://www.mca.gov.in/Ministry/pdf/Notification\\_19072016.pdf](http://www.mca.gov.in/Ministry/pdf/Notification_19072016.pdf)

#### **6. MCA Notifies NCLT and NCLAT Rules**

MCA has notified National Company Law Tribunal Rules, 2016 (NCLT Rules) and National Company Law Appellate Tribunal Rules, 2016 (NCLAT Rules). These rules shall come into force on the date of their publication in the Official Gazette. The NCLT Rules have been divided into 16 parts which includes procedure for proceedings, forms to be filed, appearances of authorized representatives among other things whereas NCLAT Rules has been divided into 20 parts which include powers and functions of President, Registrar and Secretary, general procedure, procedure for institution of

proceedings, petition, appeals, among other things.

[http://www.mca.gov.in/Ministry/pdf/Rules\\_22072016.pdf](http://www.mca.gov.in/Ministry/pdf/Rules_22072016.pdf) [NCLAT Rules]

[http://www.mca.gov.in/Ministry/pdf/Rules\\_22072016\\_1.pdf](http://www.mca.gov.in/Ministry/pdf/Rules_22072016_1.pdf) [NCLT Rules]

#### **7. Companies Act provision matters assigned to NCLT principal bench**

National Company Law Tribunal (NCLT) vide order dated 19<sup>th</sup> July, 2016 in continuation of notifications dated 01.06.2016 and orders of MCA dated 05.07.2016 and 06.07.2016 has assigned the matters related to the following provisions of the Companies Act, 2013 to the principal bench, New Delhi –

- 1) Section 245: Class Action
- 2) Section 379 to 393: Application of Act to foreign Companies
- 3) Section 394: Annual Reports of Government Companies

[http://nclt.gov.in/orders/Order\\_Dated\\_19.07.2016\\_NCLT.pdf](http://nclt.gov.in/orders/Order_Dated_19.07.2016_NCLT.pdf)

#### **8. Insolvency and Bankruptcy Board of India (Terms and Conditions of Chairperson and Members) Rules 2016**

Ministry of Corporate Affairs (MCA) has issued the Insolvency and Bankruptcy Board of India (Terms and Conditions of Chairperson and Members) Rules 2016. The

same shall come into effect on the date of publication of the notification.

The rule specifies the terms and conditions of Service of Chairperson and members of the Insolvency and Bankruptcy Board.

### **9. MCA Revises E-Forms**

MCA has revised the versions of eForms under Companies Act and LLP Act w.e.f 28th July 2016. The versions of eForms AOC-4 (Form for filing financial statement and other documents with the Registrar), INC-27 (Conversion of public company into private company or private company into public company), and MR-1 (Return of appointment of MD/WTM/Manager) and LLP Forms, Form 2 (Incorporation document and subscriber's statement), Form 2A (Details in respect of designated partners and partners of Limited Liability Partnership), Form 3 (Information with regard to limited liability partnership agreement and changes, if any, made therein), Form 4 (Notice of appointment, cessation, change in name/address/designation of a designated partner or partner. and consent to become a partner/designated partner), Form 4A (Notice of appointment, cessation, change in particulars of a partners) and Form 11 (Annual Return of Limited Liability Partnership (LLP) are revised.

### **10. MCA notifies Special Court for speedy trial of punishable offences**

Ministry of Corporate Affairs (MCA) vide Notification dated 27th July, 2016 has notified the Court of Additional Sessions Judge – 03, South West District, Dwarka as Special Court under Section 435 (1) of the Companies Act, 2013 for speedy trial of offences punishable under the Companies Act, 2013 with imprisonment of two years or more under Companies Act, 2013. The Jurisdiction of special court shall be the National Capital Territory of Delhi.

[http://www.mca.gov.in/Ministry/pdf/designationofSpecialCourt\\_28072016.pdf](http://www.mca.gov.in/Ministry/pdf/designationofSpecialCourt_28072016.pdf)

### **11. Companies (Accounts) Amendment Rules, 2016**

Ministry of Corporate Affairs (MCA) vide Notification dated 27th July, 2016 has made amendment to the Companies (Accounts) Rules, 2014, these rules may be called Companies (Accounts) Amendment Rules, 2016.

MCA has notified the Companies (Accounts) Amendment Rules, 2016 which shall come into force on the date of their publication in the Official Gazette. As per the Amendment rules, if a Company is a Wholly-owned Subsidiary ('WOS') or a partially WOS of any other company and all its members, whether entitled to vote or not do not object the Company for not presenting Consolidated Financial Statement ('CFS'); and its securities are not listed or is not under the

process of listing; and its Ultimate Holding or intermediate holding company files the CFS with Registrar in accordance with Accounting Standards, then the Company is not under the obligation to prepare CFS. Further, the Board Report shall now include highlights of the performance of subsidiaries, associates and joint venture companies and their contribution to the overall performance of the company during the period rather than a report on the performance and financial position of the same. Also, the Internal Auditor may be an individual or a partnership firm or a body corporate. Further, now a Cost Accountant whether engaged in practice or not can be appointed as an Internal Auditor. Further, the Formats for Form AOC-1 and Form AOC-4 have also been modified.

[http://www.mca.gov.in/Ministry/pdf/CompaniesAccountsAmendmentRules\\_28072016.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesAccountsAmendmentRules_28072016.pdf)

## **12. Companies (Incorporation) Third Amendment Rules, 2016**

Ministry of Corporate Affairs (MCA) vide Notification 27th July, 2016 made amendment to Companies (Incorporation) Rules, 2014, these rules may be called Companies (Incorporation) Third Amendment Rules, 2016.

MCA has notified the Companies (Incorporation) Third Amendment Rules, 2016 which shall come into force on the date of their publication in the Official Gazette. The amendment has brought about many changes in the said rules inter alia prohibiting

only a natural person from being a member and a nominee of more than a One Person Company. Further, the requirement of Form INC-10 has been omitted for incorporation of a Company. Rule 26 has also been amended which now provides for every Company having a website to disclose/publish its name, address of its registered office, the CIN, Telephone number, fax number if any, email and the name of the person who may be contacted in case of any queries. Forms INC-27 and INC-11 have been amended and new forms for 'Advertisement to be published in the newspaper for conversion of Unlimited Liability into Limited Liability Company' and 'Certificate of Incorporation pursuant to conversion of Unlimited Liability Company into Limited Liability Company' have been inserted in the principal rules.

[http://www.mca.gov.in/Ministry/pdf/CompaniesThirdAmendmentRules\\_28072016.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesThirdAmendmentRules_28072016.pdf)

## **13. Relaxation of Additional Fees and Extension of last date of filing AOC-4, AOC-4 XBRL, AOC-4 CFS & MGT-7**

Ministry of Corporate Affairs (MCA) vide Circular No. 8 dated 29<sup>th</sup> July, 2016 has extended the due date of filing financial statements and Annual Returns till 29<sup>th</sup> October, 2016 where the due date for holding Annual General Meeting (AGM) is on or after 1<sup>st</sup> April, 2016 without the payment of additional filing fees.

[http://www.mca.gov.in/Ministry/pdf/GeneralCircular08\\_30072016.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircular08_30072016.pdf)



## **SEBI**



### ***1. Revised Formats for Financial Results & Ind-AS Implementation by Listed Entities***

Securities Exchange Board of India (SEBI) vide Circular dated 5<sup>th</sup> July, 2016 has revised the formats for Financial Results and Implementation of Indian Accounting Standards (Ind-AS) by Listed Entities.

#### **Formats:**

1. The existing formats prescribed in SEBI Circular dated November 30, 2015 for Unaudited/Audited quarterly financial results i.e. Statement of Profit and Loss and the Unaudited/Audited Half-Yearly Balance Sheet to be submitted by the listed entities, with the stock exchanges, shall continue till the period ending December 31, 2016.

For the period ending on or after March 31, 2017, the formats for Unaudited/Audited quarterly financial results i.e. Statement of Profit and Loss and the Unaudited/Audited Half Yearly Balance Sheet to be submitted by the Listed Entities, with the stock exchanges,

shall be as per the formats for Balance Sheet and Statement of Profit and Loss (excluding notes and detailed sub-classification) as prescribed in Schedule III to the Companies Act, 2013. However, Banking Companies and Insurance Companies shall follow the formats as prescribed under the respective Acts/Regulations as specified by their Regulators.

2. Until Companies (Indian Accounting Standards) Rules, 2015 ('Ind-AS Rules') become applicable, the listed entities shall adopt Companies (Accounting Standards) Rules, 2006 ('AS Rules') as prescribed by the Ministry of Corporate Affairs ('MCA').

#### **Implementation of Ind-AS during the first year:**

in order to facilitate smooth transition during the first year of Ind-AS implementation, the following relaxations are being given to the listed entities to which IndAS Rules are applicable from the accounting period beginning on or after April, 1, 2016:

#### **For Quarter ending June 30, 2016 and September, 2016**

- Timeline for submitting financial results extended by one month. The results for the quarter ending June 30, 2016 and September 30, 2016 may be submitted by September 14, 2016 and December 14, 2016 respectively.
- For the quarter ending June 30, 2016, Ind-AS compliant financial results for the

corresponding quarter ended June 30, 2015 shall be provided. For the quarter ending September 30, 2016, Ind-AS compliant financial results for the corresponding year to date / quarter ended September 30, 2015 shall be provided. However, in such cases, limited review or audit of the same is not mandatory.

- For the quarter ending June 30, 2016, submission of Ind-AS compliant financial results for the preceding quarter and previous year ended March 31, 2016 is not mandatory. For the quarter ending September 30, 2016, submission of Ind-AS compliant financial results and Balance Sheet for the previous year ended March 31, 2016 is not mandatory. However, in case the entities intend to submit these results, the same may be without limited review or audit.

**For the quarter ending December 31, 2016:**

- The submission of Ind-AS compliant financial results for the previous year ended March 31, 2016 is not mandatory.
- In case a listed entity chooses to provide Ind-AS comparatives for the period mentioned above to facilitate comparison, the same shall be subjected to limited review or audit.

**[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1467712561526.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1467712561526.pdf)**

***2. Consultation paper for Disclosure of financial information in offer document/placement memorandum and for Valuation in respect of SEBI (Infrastructure investment trusts) Regulations, 2014***

Securities Exchange Board of India (SEBI) has issued a Consultation paper for Disclosure of financial information in offer document/placement memorandum and for Valuation in respect of SEBI (Infrastructure investment trusts) Regulations, 2014 dated 8<sup>th</sup> July, 2016.

The SEBI (Infrastructure investment trusts) Regulations, 2014 (InvIT Regulations) were notified on September 26, 2014, thereby providing a regulatory framework for registration and regulation of InvITs in India. The regulations, inter alia, prescribe conditions for making a public offer and private placement and broad guidelines for making initial and continuous disclosures including disclosures of financials of the InvIT. However, in order to enable investors to make well-informed investment decisions, timely, adequate and accurate disclosure of financial results on a periodical basis is critical. At the same time, it is important to ensure comparability, uniformity and parity in disclosures made by such entities.

InvIT regulations inter-alia provide for broad guidelines for an InvIT w.r.t. compliance with accounting norms to be followed at the time of the initial offering as well as continuous disclosures to be complied with



by the Infrastructure investment trusts (InvITs). However, specific requirements including the preparation of accounts, formats etc. are being discussed.

The present consultation paper proposes a framework for disclosures in offer document/placement memorandum and for Valuation of the units of InvIT.

Further, it may be noted that the consultation paper has been prepared keeping in mind the fact that the InvIT may hold the infrastructure assets both through a special purpose vehicle (SPV) (which may be a company or a LLP) as well as directly. Therefore, depending upon the structure of holding of the infrastructure assets, the respective Acts i.e. the Companies Act, 2013/ LLP Act, 2008 shall be applicable on such structures, mutatis mutandis. Further, the disclosure of consolidated financial statements, as envisaged in the paper, shall be applicable only when the InvIT hold assets through SPV(s) as well.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1467978060629.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1467978060629.pdf)

### ***3. Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2016***

Securities Exchange Board of India (SEBI) vide Notification dated 8<sup>th</sup> July, 2016 has made amendment to the SEBI (Listing Obligations and Disclosure Requirements)

Regulations, 2015, namely Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2016.

After Regulation 43 the following regulation shall be inserted, namely:-

“Dividend Distribution Policy.

43A. (1) The top five hundred listed entities based on market capitalization (calculated as on March 31 of every financial year) shall formulate a dividend distribution policy which shall be disclosed in their annual reports and on their websites.

(2) The dividend distribution policy shall include the following parameters:

- (a) the circumstances under which the shareholders of the listed entities may or may not expect dividend;
- (b) the financial parameters that shall be considered while declaring dividend;
- (c) internal and external factors that shall be considered for declaration of dividend;
- (d) policy as to how the retained earnings shall be utilized; and
- (e) parameters that shall be adopted with regard to various classes of shares:

Provided that if the listed entity proposes to declare dividend on the basis of parameters in addition to clauses (a) to (e) or proposes to change such additional parameters or the dividend distribution policy contained in any of the parameters, it shall disclose such changes along with the rationale for the same in its annual report and on its website.

The listed entities other than top five hundred listed entities based on market capitalization may disclose their dividend distribution policies on a voluntary basis in their annual reports and on their websites.

#### ***4. Securities and Exchange Board of India (Foreign Portfolio Investors) (Amendment) Regulations, 2016***

Securities Exchange Board of India (SEBI) vide Notification dated 8<sup>th</sup> July, 2016 has made amendment to the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, namely, the Securities and Exchange Board of India (Foreign Portfolio Investors) (Amendment) Regulations, 2016.

In the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, in regulation 22, for sub-regulation (2), the following shall be substituted, namely,-

“(2)A foreign portfolio investor shall ensure that any transfer of offshore derivative instruments issued by or on behalf of it, is made subject to the following conditions:

- (a) such offshore derivative instruments are transferred to persons subject to fulfilment of sub-regulation (1); and
- (b) prior consent of the foreign portfolio investor is obtained for such transfer, except when the persons to whom the offshore derivative instruments are to be transferred to are pre-approved by the foreign portfolio investor.”

#### ***5. Acceptance of Fixed Deposit Receipts (FDRs) by Clearing Corporation***

SEBI vide Circular barred banks from using their own Fixed Deposit Receipts (FDRs) as collateral in their function as trading or clearing members of stock exchanges, directly or through associate entities. Further, SEBI asked them not to accept such FDRs while trading or clearing members having already deposited their own FDRs or that of associate banks would need to replace them with other eligible collaterals within six months. SEBI stated that it has observed that some banks who are also trading members or clearing members on the stock exchange/clearing corporation have placed Fixed Deposit Receipts issued by themselves as collateral, with the clearing corporation. However, SEBI's Risk Management Review Committee, after taking into account the global benchmarks set for collaterals by the international securities regulator body IOSCO, suggested that there is a need to align the risk management practices in Indian markets with the global principles.

Securities Exchange Board of India (SEBI) vide Circular No. CIR/MRD/DRMNP/65/2016 dated 15<sup>th</sup> July, 2016 has decided to align the risk management practices of the securities market with Principles of Financial Market Infrastructures (PFMIs).

Currently, Fixed Deposit Receipts of banks are accepted by Clearing Corporations as eligible collateral from the participants.

Further, it is observed that some banks who are also the trading members/clearing members on the stock exchange/clearing corporation have placed Fixed Deposit Receipts (FDRs) issued by themselves as Collateral, with the Clearing Corporation.

SEBI as a member of the International Organization of Securities Commissions (IOSCO) has implemented various standards of the Principles for Financial Market Infrastructures (PFMIs). The Risk Management Review Committee of SEBI also considered the PFMI principle 5 on 'Collateral' while deliberating on the issue of 'deposit of collateral' with the Clearing Corporation.

Thus, it has been decided to further align the risk management practices of the securities market with the PFMIs. Therefore, the Clearing Corporations are advised to implement the following -

a) Clearing corporation shall not accept Fixed Deposit Receipts (FDRs) from trading/clearing members as collateral, which are issued by the trading/ clearing member themselves or banks who are associate of trading/ clearing member.

Explanation - for this purpose, 'associate' shall have the same meaning as defined under Regulation 2 (b) of SECC Regulations 2012.

b) Trading/Clearing Members who have deposited their own FDRs or FDRs of associate banks shall replace such collateral, with other eligible collateral as per extant

norms, within a period of six months from the date of issuance of the circular.

#### ***6. Consultation paper for amendments to the SEBI (Real Estate Investment Trusts) Regulations, 2014***

Securities Exchange Board of India (SEBI) has issued Consultation Paper for amendments to the SEBI (Real Estate Investment Trusts) Regulations, 2014.

SEBI REIT Regulations were notified on 26th September, 2014, thereby providing a regulatory framework for registration and regulation of REITs in India. The regulations, inter alia, prescribe conditions for making a public offer, initial and continuous disclosures, investment conditions, unit-holder approval requirements, related party disclosures, etc.

Pursuant to the notification of REIT regulations, various representations and suggestions have been received from industry bodies and market participants. The representations received have requested changes/clarification to certain provisions of the REIT regulations. Accordingly, certain amendments/clarifications are proposed for the REIT Regulations.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1468840545048.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1468840545048.pdf)

## **7. FAQ's on Electronic book mechanism for debt securities**

Securities Exchange Board of India (SEBI) has provided Frequently asked Questions (FAQs) on Electronic book mechanism for issuance of debt securities on private placement basis. These FAQs are prepared with a view to guide market participants on Electronic book mechanism for issuance of debt securities on private placement basis. The same are issued in reference to the SEBI Circular No. CIR/IMD/DF1/48/2016 dated April 21, 2016 ("EBP Circular") with regards to Electronic book mechanism for issuance of debt securities on private placement basis.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1469013934590.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1469013934590.pdf)

## **8. Operationalisation of Central KYC Records Registry (CKYCR)**

Securities Exchange Board of India (SEBI) vide Circular No. CIR/MIRSD/ 66 /2016 dated 21<sup>st</sup> July, 2016 has operationalized the Central KYC Records Registry (CKYCR). Government of India has authorized the Central Registry of Securitization and Asset Reconstruction and Security interest of India (CERSAI), set up under subsection (1) of Section 20 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, to act as, and to perform the functions of, the Central KYC Records Registry under the PML Rules 2005, including receiving, storing, safeguarding and retrieving the KYC records in digital form of a "client", as defined in clause (ha) sub-section (1) of

Section 2 of the Prevention of Money Laundering Act, 2002.

Accordingly, the KYC template finalised by CERSAI shall be used by the registered intermediaries as Part I of AOF for individuals. In this regard, it is clarified that the requirement for Permanent Account Number (PAN) would continue to be mandatory for completing the KYC process.

The "live run" of the CKYCR has started with effect from July 15, 2016 in a phased manner beginning with new „individual accounts“. Further, „Test Environment“ has also been made available by CERSAI for the use of the reporting entities.

In the first phase, the registered intermediaries shall upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 1, 2016, wherever KYC is required to be carried out as per the circulars issued by SEBI from time to time and accordingly, shall take steps to prepare their systems for uploading the KYC data.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1469162138003.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1469162138003.pdf)

## ***DIPP***

### ***Fund of Funds for Start Ups***

Ministry of Commerce & Industry vide Press Release dated 25<sup>th</sup> July, 2016 has announced the approval of establishment of “Fund of Funds for Startups” (FFS). The corpus of FFS is of INR 10,000 crore over a period of 4 years (i.e. INR 2500 crore per year) which shall be released subject to progress of the scheme and availability of funds.

Rs. 500 crore was released to Small Industries Development Bank of India (SIDBI) as first tranche in March 2016. Rs. 600 crore has been provided in the budget for the current financial year. Applications received from various Alternative Investment Funds (AIFs) for FFS support are under various stages of processing and approval. Key features of FFS are annexed.

An amount of Rs. 500 crore has been provided to the corpus of FFS in 2015-16. No such data is maintained centrally for assessing the impact of funds provided through FFS. However, such a provision of funds supplements the domestic capital of startups and has a multiplier effect in stimulating economic growth leading to increased production and employment generation.

A Monitoring Committee comprising of Department of Industrial Policy and Promotion, Department of Revenue, NITI Aayog, Ministry of Micro, Small and

Medium Enterprises, Department of Science and Technology, Department of Biotechnology, Department of Electronics and Information Technology, Department of Higher Education and Small Industries Development Board of India to monitor implementation of the Action Plan of Start-up India initiative has been constituted by this Department.

The Committee shall have the following roles:

1. Review the progress of Action Plan
2. Evaluate the quality and effectiveness of work done
3. Strategic and operational planning for implementation of various measures
4. Ensure that initiatives meet the needs of beneficiaries
5. Ensure that the initiative is able to demonstrate its impact in full measure
6. All measures taken comply with the law and are within the policy framework.

## ***IPR***

### ***Automation of Process for Registration of Trademarks***

Government of India, Ministry of Commerce & Industries vide Public Notice dated 28<sup>th</sup> July, 2016 has automated the process relating

to generation & issuance of registration certificates for applications made for registration of trademarks.

Accordingly, from 1st august 2016 the registration certificates will be generated through an automated system in accordance with the relevant provisions of the Trade Marks Act & Rules and made available to the applicants concerned or their authorised agents on record, in respect of all trademark applications-

- which have been published in the Trade Marks Journal Number 1720 dated 23.11.2015 and thereafter,
- where no request for amendment filed on behalf of the applicant is pending for disposal,
- where the copy of original application for registration is available in the Trade Marks Registry's electronic database,
- where no requirement (like fee, Power of Attorney, etc.) is pending for compliance on part of the applicant, and
- which have not been specifically prohibited for registration by the order of any court, IPAB or any competent authority.

The Registration certificate so generated will be transmitted to the applicant concerned or his authorised agent on record on his email address recorded with this office and shall also be made available on the official website ([www.ipindia.nic.in](http://www.ipindia.nic.in)) along with status of the application concerned. The Registration certificate made available on the website

may be downloaded and printed as desired by the applicant.

Cases which are left out by the automated registration process due to aforesaid reasons will be processed as per law by the Registration wing of the Examination Publication and Registration Section of the TMR Mumbai through the present Trade Marks System on a case to case basis.



## **TAXATION**



### ***1. Extension of time limit for taking central excise registration of an establishment by a jeweler***

The Ministry of Finance vide Press Release dated 1<sup>st</sup> July, 2016 has extended the time limit for taking central excise registration of an establishment by a jeweller up to 31.07.2016.

The liability for payment of central excise duty will be with effect from 1<sup>st</sup> March, 2016. However, assessee jewellers may make payment of excise duty for the months of March, 2016; April 2016 and May, 2016 along with the payment of excise duty for the month of June, 2016 upto the extended date of 31.07.2016.

### ***2. Income Computation and Disclosure Standards (ICDS) notified under Section 145 (2) of the Income -tax Act, 1961 to be applicable from 1st April, 2016***

The Ministry of Finance vide Press Release dated 6<sup>th</sup> July, 2016 has said that Income Computation and Disclosure Standards (ICDS) will now be applicable from the current fiscal year as against 2015-16 notified earlier. It has been decided that the ICDS shall be applicable from 1.4.2016 i.e. previous year 2016-17 (Assessment Year 2017-18).

<http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/490/Press-Release-Applicability-of-Income-Computation-06-07-2016.pdf>

### ***3. CBDT revises format of Issue of Income Tax Notices U/s. 143(2)***

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification dated 11<sup>th</sup> July, 2016 has revised the format for issue of notices of Income Tax under Section 143(2) of the Income Tax Act, 1961. Notice under Section 143(2) means the assessee return has been selected for detailed scrutiny by the Assessing Officer.

Henceforth, there shall be three formats of the said notice namely: Limited Scrutiny, Complete Scrutiny, Manual Scrutiny.

### ***4. Clarification regarding TDS on Interest paid by IFSC Banking Units***

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Circular No. 26 dated 4<sup>th</sup> July, 2016 has issued clarification with regard to applicability of Section 197A (1D)



and Section 10(15)(viii) of the Income Tax Act, 1961 on the interest paid by IFSC Banking Units. It has now been decided/clarified that the provisions of Section 197A(1D) of the income tax Act, 1961, tax is not required to be deducted on interest paid by IFSC Banking Units on deposits made on or after 01.04.2005 by a non-resident or a person who is not ordinarily resident in India, on or borrowings made on or after 01.04.2005 from such persons.

[http://www.incometaxindia.gov.in/communications/circular/circularno26\\_2016.pdf](http://www.incometaxindia.gov.in/communications/circular/circularno26_2016.pdf)

#### **5. *CBDT directs officials to not to disclose info received under IDS,2016***

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification No. 56/2016 dated 6<sup>th</sup> July, 2016 has directed that no public servant shall produce before any person or authority any such document or record or any information or computerized data or part thereof as comes into his possession during the discharge of official duties in respect of a valid declaration made under 'the Income Declaration Scheme, 2016', contained in Chapter IX of the Finance Act, 2016.

#### **6. *Delhi Value Added Tax (Amendment) Act, 2016***

The Government of Delhi vide Notification dated 5<sup>th</sup> July, 2016 has made amendment to Delhi Value Added Tax Act, 2004. The

following sections have been amended / inserted:

Section	Amended/Inserted
3 – Imposition of tax	<p>A new subsection 11 shall be inserted –</p> <p>“(11) Notwithstanding anything contained in this Act to the contrary, the Government may by notification specify the goods on which a person shall pay tax in advance at the rates notified by the Government but not exceeding the rates applicable on such goods under this Act, when he imports such goods into the National Capital Territory of Delhi from a place outside India, subject to such conditions as may be specified in the notification. The aforesaid payment of tax in advance shall be counted towards the final tax liability of the taxable person:</p> <p>Provided that the Government may by notification exempt any person or class of persons from payment of tax in advance or reduce the rate of payment of tax in</p>

	<p>advance subject to such conditions as may be notified:</p> <p>Provided further that if on an application made by a person the Commissioner or an officer authorized by him, after verifying all aspects of the case, arrives at a decision that such person should be exempted from payment of tax in advance or that the rate of payment of tax in advance should be reduce for such person, he may do so and impose such terms and conditions on such person as he may deem fit.</p> <p>Explanation.- The person, who imports goods into the National Capital Territory of Delhi, shall pay tax in advance, on the presumption that such goods are meant for the purpose of sale or for use in manufacture or processing of goods meant for sale, unless, it is proved otherwise by such person. It is further presumed, unless it is proved otherwise by such person, that such goods or</p>	<p>any product manufactured therefrom shall not be sold below the price at which such goods have been purchased and imported.”.</p>
29 – Signing Returns	<p>In section 29, after sub-section (1), and before the Explanation 1 clause, the following sub-section shall be inserted, namely:-</p> <p>“(2) The Commissioner may by notification in the official gazette, require any dealer or class of dealers to file the returns only through electronic mode appending digital signatures or any other electronic identification process and with effect from such date as may be specified therein”.</p>	
50A - Electronic communication of sale information	<p>after section 50, the following new section shall be inserted, namely:-</p> <p>“50A Electronic communication of sale information. -</p> <p>(1) the Government may by notification in the</p>	

	<p>official gazette require any dealer or class of dealers to install such physical compliance devices or software, as may be considered necessary for instantaneous communication of the information of sale invoices to the Commissioner.</p> <p>(2) The cost of equipment and installation of the device and software, as may be required under sub-section (1), shall be borne by the dealer.”</p>
86 – Penalties	in section 86; in sub-section (10), for the words “ten thousand rupees”, the words “one thousand rupees” shall be substituted.
91 A - Special Courts and Public Prosecutor	<p>after section 91, the following new section shall be inserted, namely:-</p> <p>“91A Special Courts and Public Prosecutor .-</p>

	<p>(1) Notwithstanding anything contained in this Act to the contrary, the Government may, if considers expedient or necessary, constitute, by notification in the Official Gazette, a Special Court with the concurrence of the Chief Justice of the Delhi High Court for the purposes of the trial of offences under this Act.</p> <p>(2) For the Special Court, the Government shall appoint a person to be the Public Prosecutor and may appoint more than one person to be the Additional Public Prosecutors.”.</p>
92 – Investigation of offences	<p>in section 92,after sub-section (2), the following subsection shall be inserted, namely:-</p> <p>“(3) Every officer or person so authorized shall, upon investigation of the offence, submit a report to the Commissioner with the recommendations for sanctioning prosecution</p>

	or otherwise and the Commissioner, shall, then take a decision as to whether prosecution is essentially required in the matter and if so, the authorized officer shall launch prosecution before the Metropolitan Magistrate having jurisdiction over the area or before a court specially designated by the government for the purpose.”,
93 – Compounding of Offences	in section 93, in subsection (1) the following proviso shall be inserted, namely:-  “Provided that the composition of offence shall not apply in case of second and subsequent offence of the same nature.”.
107 – Amnesty Scheme	in section 107, for the words, symbols and digits “under the ‘Act’, for any period ending before first day of April, 2013”, the words and symbols “already assessed under section 32 or section 33 of the Act, as the case may be,

	before a period of at least one year from introduction of such Amnesty Scheme” shall be substituted.
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### **7. Income Declaration Scheme 2016 – Government Revises Time Schedule for Making Payments under the Scheme**

Ministry of Finance vide Press Release dated 14<sup>th</sup> July, 2016 has revised the time schedule for making payments under the Income Declaration Scheme, 2016.

The Government has decided to revise the time schedule for making payments under the Scheme as under:

- (i) a minimum amount of 25% of the tax, surcharge and penalty to be paid by 30.11.2016; (ii) a further amount of 25% of the tax, surcharge and penalty to be paid by 31.3.2017; and (iii) the balance amount to be paid on or before 30.9.2017.

### **8. Clarification on the Income Declaration Scheme, 2016**

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Circular No. 27 dated 14<sup>th</sup> July, 2016 has issued another set of FAQs regarding the clarification on the Income Declaration Scheme, 2016.

[http://www.incometaxindia.gov.in/communications/circular/circular27\\_14072016.pdf](http://www.incometaxindia.gov.in/communications/circular/circular27_14072016.pdf)

### **9. Notification on Arm Length Price determination in respect of wholesale trading**

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification dated 14<sup>th</sup> July, 2016 has notified that for the purpose of computation of arm's length price, where there is variation between the arm's length price determined under section 92C of Income Tax Act, 1961 and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed 1% of the latter in respect of wholesale trading and 3% of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2016-2017. The notification further provides the definition of wholesale trading.

“wholesale trading” means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

(i) purchase cost of finished goods is eighty percent. or more of the total cost pertaining to such trading activities; and

(ii) average monthly closing inventory of such goods is ten percent. or less of sales

pertaining to such trading activities.

### **10. Revised Payment Schedule: Income Declaration Scheme, 2016**

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification No. 59 dated 20<sup>th</sup> July, 2016 has revised the payment schedule under Income Declaration Scheme 2016. The date on or before which the tax and surcharge is payable under section 184 of the Finance Act, 2016, and the penalty is payable under section 185 in respect of undisclosed income shall be as follows, namely:-

(a) the 30th day of November, 2016, for an amount not less than twenty-five per cent. of such tax, surcharge and penalty;

(b) the 31st day of March, 2017, for an amount not less than fifty per cent. of such tax, surcharge and penalty as reduced by the amount paid under clause (a);

(c) the 30th day of September, 2017, for the whole amount payable under section 184 and 185 as reduced by the amounts paid under clause (a) and (b);”.

<http://www.incometaxindia.gov.in/communications/notification/notification592016.pdf>

### **11. Revised deceleration under Income Declaration Scheme 2016 enabled**

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification No. 60 dated 20<sup>th</sup> July, 2016 has revised the

declaration form under Income Declaration scheme 2016.

CBDT has amended Income Declaration Scheme Rules, 2016 to amended form 1 related to deceleration of undisclosed Income and incorporated option to file Revised Return under the scheme. In case of revised return the declarant has to mention Receipt No. and Date of filing original Form-1 and Reason for Filing Revised Form 1.

<http://www.incometaxindia.gov.in/communications/notification/notification602016.pdf>

### ***12. New application process to fast track the allotment of PAN and TAN***

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Press Release dated 22<sup>nd</sup> July 2016 has introduced the Digital Signature Certificate(DSC) based application procedure on the portals of PAN service providers M/s NSDL eGov and M/s UTIITSL for fast tracking the allotment of PAN and TAN to company applicants. Under the new process PAN and TAN will be allotted within one day after completion of valid on-line application.

Similarly, a new Aadhaar e-Signature based application process for Individual PAN applicants has been made available on the portals of PAN service providers M/s NSDL eGov.

The URL links for the above applications are available in ‘important links’ on the

homepage of the departmental website ‘incometaxindia.gov.in’.

Introduction of Aadhaar based e-Signature through M/s NSDL eGov in PAN application not only ensures paperless hassle free PAN application process but also seeding of Aadhaar in PAN which will curb the problem of duplicate PAN to a great extent.

### ***13. Draft Rules for prescribing the manner of determination of amount received by the company in respect of share formulated (Section 115QA of the Income-tax Act, 1961)***

Ministry of Finance vide Press Release dated 25<sup>th</sup> July, 2016 has formulated the draft rules for prescribing the manner of determination of amount received by the company in respect of share formulated Under section 115QA of the Income-tax Act, 1961 (the Act).

Under section 115QA of the Income-tax Act, 1961 (the Act), additional Income-tax at the rate of 20 percent is levied on the distributed income arising out of buy back of unlisted share by the company.

The Finance Act, 2016 has amended the definition of “distributed income”, with effect from 01.06.2016, to mean the consideration paid by the company on buy back of shares as reduced by the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed. In this regard, draft rules



providing for determination of amount received by company for use of its shares under different circumstances have been formulated.

#### ***14. Clarification on attaining the age of 60 years/ 80 years***

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Circular No. 28 dated 27th July 2016 has provided clarification with regard to attainment of prescribed age of 60 years/80 years on 31st March itself in case of Senior / very senior citizen whose date of birth falls on 1st April for the purpose of Income Tax Act, 1961.

CBDT clarifies that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday.

<http://www.incometaxindia.gov.in/communications/circular/circularno282016.pdf>

#### ***15. Cabinet increases the limit for foreign investment in Stock Exchanges from 5% to 15%***

Government of India, Ministry of Finance vide Press Release dated 27th July, 2016 has given approval for raising foreign shareholding limit from 5% to 15% in Indian Stock Exchanges for a stock exchange, a depository, a banking company, an insurance company, a commodity derivative exchange. The Cabinet has also approved the proposal to allow foreign portfolio investors to acquire

shares through initial allotment, besides secondary market, in the stock exchanges.

#### ***16. Cabinet approves Bilateral Investment Treaty between India and Cambodia to boost investment***

Government of India, Ministry of Finance vide Press Release dated 27th July, 2016 has approved the Bilateral Investment Treaty (BIT) between India and Cambodia.

The Treaty seeks to promote and protect investments from either country in the territory of the other country with the objective of increasing bilateral investment flows. The Treaty encourages each country to create favorable conditions for investors of the other country to make investments in its territory and to admit investments in accordance with its laws.

#### ***17. Extension of date for Filing of online return for Q1 of 2016-17***

Department of Trade and Taxes vide Circular No. 11 dated 28th July, 2016 has extended the last date of filing of online/hard copy of first quarter return for the year 2016-17, in Form DVAT-16, DVAT-17 and DVAT-48 along with required annexure/enclosures to 31.08.2016.

#### ***18. Extension of Due Date of Filing Income Tax Return for Assessment Year 2016-17***

Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Press Release dated 29<sup>th</sup>

July, 2016 has extended the due date of filing Income Tax Return for the Assessment Year 2016-17 from 31<sup>st</sup> July, 2016 to 5<sup>th</sup> August, 2016. This extension would apply to taxpayers all over India except the state of J&K.

For taxpayers located in the State of Jammu & Kashmir, the Central Board of Direct Taxes (CBDT) has decided to extend the last date for such returns which were due on 31<sup>st</sup> July, 2016 to 31<sup>st</sup> August, 2016.

***19. India notifies DTAA with Saint Kitts and Nevis w.e.f. 02.02.2016***

Government of India, Ministry of Finance vide Notification dated 21<sup>st</sup> July, 2016 has notified all the provisions of the Agreement between the Government of India and the Government of Saint Kitts and Nevis for the Exchange of Information relating to taxes with effect from 2<sup>nd</sup> February, 2016.

[http://www.incometaxindia.gov.in/communications/notification/notification62\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification62_2016.pdf)

## **SERVICE TAX**

### **Permission to pay service tax through non electronic modes**

Ministry of Finance, Central Board of Excise and Customs (CBEC) vide Instruction dated 22<sup>nd</sup> July, 2016 has allowed the assessee to deposit service tax by any other mode.

Rule 6(2) of the Service Tax Rules, 1994 stipulate that while every assessee shall pay service tax electronically through internet banking, the jurisdictional Deputy/Assistant Commissioner, may, for reasons to be recorded in writing, allow the assessee to deposit service tax by any other mode.

<http://www.cbec.gov.in/htdocs-servicetax/st-instructions/st-instructions-2016/prmsn-pay-st-non-elctrncs-modes.pdf>

## **EXCISE**

### **Simplified Central Excise norms for Jewellery Sector notified**

Government of India, Ministry of Finance, vide Press Release dated 28th July, 2016 has announced that the Simplified Central Excise norms for Jewellery sector has been notified. In the present budget central excise duty of 1% without input and capital goods tax credit or 12.5% with credit was imposed on articles of jewellery falling under heading 7113 of the First Schedule to the Central Excise Tariff 1985.

Subsequent to that, the Government had set up a Sub-Committee of the High Level Committee, to interact with Trade & Industry on issues relating to procedure and compliance relating to excise duty of articles of jewellery. Further the committee provided the report and based on the recommendations of the committee the Central Government issued the following notifications and circulars to give effect to the same:

### **Notifications issued:**

Notification No.	Gist of notifications
26/2016 – Central Excise	Seeks to amend notification No. 12/2012-Central Excise so as to prescribe 1% excise duty (without input and capital goods credit) on parts of articles of jewellery falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986), and to prescribe a criteria for classification of an articles of jewellery or part of articles of jewellery or both as that of a particular precious metal.
27/2016 – Central Excise	Seeks to partially exempt Central Excise duty on articles of jewellery falling under heading 7113 of the Central Excise Tariff Act,

	1985 (5 of 1986) manufactured by:  (a) re-conversion of jewellery given by the retail customer, or  (b) mounting of precious stone given by the retail customer.		First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986),  (a) for articles of jewellery or parts of articles of jewellery or both (other than those which are manufactured from the precious metal provided by the retail customer), the first sale value, that is the value at which such articles of jewellery or parts of articles of jewellery or both, are sold for the first time, as the tariff value;
28/2016 – Central Excise	Seeks to amend notification No. 8/2003-Central Excise dated 1 <sup>st</sup> March, 2003, so as to increase for articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986):  (a) the SSI Exemption limit from Rs. 6 crore to Rs. 10 crore; and  (b) the SSI Eligibility limit from Rs. 12 crore to Rs. 15 crore.		(b) for articles of jewellery or parts of articles of jewellery or both manufactured from the precious metal provided by the retail customer, the value which is sum of,-  i. the cost of additional materials used by the manufacturer or principal manufacturer, as the case may be, for making such articles of jewellery;
29/2016 – Central Excise	Seeks to amend notification No. 17/2011-Central Excise, dated the 1 <sup>st</sup> March, 2011, so as to exclude handicrafts falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986), from the purview of excise duty exemption for “handicrafts”.		ii. the labour charges charged by the manufacturer or
33/2016 - Central Excise (N.T.)	Seeks to notify, for articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the		

	<p>principal manufacturer, as the case may be, from the retail customer; and</p> <p>iii. the value of precious metal provided by the retail customer, as the tariff value.</p>		<p>will also apply to the manufacturers or principal manufacturers of parts of articles of jewellery, falling under heading 7113;</p> <p>ii. prescribe that the date of submission of quarterly return, for manufacturers or principal manufacturers of articles of jewellery or parts of articles of jewellery or both, falling under heading 7113, for quarter ending on 31st March, 2016, and quarter ending on 30th June, 2016, shall be the 10th August, 2016; and</p> <p>iii. as separate rules are being prescribed for articles of jewellery or parts of articles of jewellery or both falling under heading 7113 of the said Schedule to the said Tariff Act, applicability of Rule 12AA is being restricted to articles of precious metals falling under heading 7114.</p>
34/2016 - Central Excise (N.T.)	<p>Seeks to notify the Articles of Jewellery (Collection of Duty) Rules, 2016, applicable to articles of jewellery or parts of articles of jewellery or both falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986). These rules, inter-alia, provide manner of payment of Central Excise duty on articles of jewellery or parts of articles of jewellery or both, including an optional scheme for payment of such Excise duty.</p>		
35/2016 - Central Excise (N.T.)	<p>Seeks to amend the Central Excise Rules, 2002 in relation to articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), so as to:</p> <p>i. provide that the quarterly return (ER.8)</p>		
		36/2016 - Central Excise (N.T.)	<p>Seeks to amend the CENVAT Credit Rules, 2004 in relation to articles of jewellery or parts of articles</p>

	of jewellery or both, falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), so as to include a principal manufacturer of articles of jewellery or parts of articles of jewellery or both as manufacturer for the purposes of the CENVAT Credit Rules, 2004.
37/2016 - Central Excise (N.T.)	Seeks to provide a modified format for quarterly return, ER-8, for return of excisable goods cleared at the Central Excise duty rate of 1% [including articles of jewellery or parts of articles of jewellery or both, falling under heading 7113] or 2%.
38/2016 - Central Excise (N.T.)	Seeks to amend notification No. 35/2001-Central Excise (N.T.) so as to:  (i) provide that a person engaged in the manufacture of articles of jewellery or parts of articles of jewellery or both, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) may get himself registered by 31st day of July, 2016;  (ii) exempt a person engaged in the manufacture of

	articles of jewellery or parts of articles of jewellery or both, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) from the requirement to submit plan of the factory premises under simplified registration procedure.
39/2016 - Central Excise (N.T.)	Seeks to amend notification No. 17/2006-Central Excise (N.T.) dated the 1st August, 2006 so as to exempt a manufacturer or principal manufacturer of articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986) from filing of annual return.
40/2016 - Central Excise (N.T.)	Seeks to amend notification No. 36/2001-Central Excise (N.T.) dated 26th June, 2001, so as to exempt a manufacturer or principal manufacturer of articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986) from taking central excise registration upto the full exemption limit, which is being increased to Rs. 10 Crore.



43/2016 Customs	-	Seeks to exempt organic sugar upto a quantity of 10,000 MT in a year, from export duty subject to specified conditions.
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### Circulars issued:

Circular No.	Gist of circulars
1040/28/2016 - CX	Clarification on computation of exemption and eligibility and exemption limits and other related issues for small scale industries [SSI] exemption under Notification No. 8/2003-CE dated 1st March 2003 in respect manufacturer or principal manufacturer of articles of jewellery or parts of articles of jewellery or both.
1041/29/2016 - CX	Guidelines for Excise Audit of Manufacturers / Principal Manufacturers of articles of jewellery or parts of articles of jewellery
1042/30/2016 - CX	Export related procedural simplifications - excise duty on articles of jewellery falling under heading 7113.
1043/31/2016 - CX	General procedures regarding excise duty on articles of jewellery or parts of articles of

	jewellery or both falling under heading 7113.
1044/32/2016 - CX	Guidelines for issue of summons, visits, search, seizure, arrest and prosecution regarding manufacturers or principal manufacturers of articles of jewellery or parts of articles of jewellery or both.
1045/33/2016 - CX	Taxability of stock on February 29, 2016 - Excise duty imposition on articles of jewellery in the Budget 2016-17.

## **OTHERS**

### ***1. Cabinet approves the National Apprenticeship Promotion Scheme***

The Union Cabinet vide Press Release dated 5<sup>th</sup> July, 2016 has approved the National Apprenticeship Promotion Scheme.

The Scheme would be implemented by Director General of Training (DGT) under Ministry of Skill Development and Entrepreneurship (MSDE). *It provides for incentivizing employers to engage apprentices. 25% of the total stipend payable to an apprentice would be shared with employers directly by Government of India.* It is for the first time a scheme has been designed to offer financial incentives to employers to engage apprentices. In addition, it also supports basic training, which is an essential component of apprenticeship training. 50% of the total expenditure incurred on providing basic training would be supported by Government of India. The Scheme has an outlay of Rs. 10,000 crore with a target of 50 lakh apprentices to be trained by 2019-20.

The Scheme will catalyze the entire apprenticeship ecosystem in the country and it will offer a win-win situation for all stakeholders. It is expected to become one of the most powerful skill-delivery vehicle in the country.

## **Background:**

Apprenticeship Training is considered to be one of the most efficient ways to develop skilled manpower for the country. It provides for an industry led, practice oriented, effective and efficient mode of formal training. The National Policy of Skill Development and Entrepreneurship, 2015 launched by the Prime Minister focuses on apprenticeship as one of the key components for creating skilled manpower in India. The present scheme also aims to achieve the objective as stated in the National Policy, 2015. The policy proposes to work pro-actively with the industry including MSME to facilitate tenfold increase opportunities in the country by 2020-20.

### ***2. Amendment to Patent Rules***

Ministry of Commerce & Industry vide Press Release dated 25<sup>th</sup> July, 2016 has made amendments to Patents Rules.

The Patent Rules have been amended to include provisions for expedited examination of patent applications on any of the following grounds, namely:-

- i) That India has been indicated as the competent International Searching Authority or elected as an International Preliminary Examining Authority in the corresponding international application.
- ii) That the applicant is a startup.

The amended Patent Rules have already been notified and have come into force on 16th May, 2016.

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## **Legal Insight – Recent Case Study**

### **Applicability of the Rule on Collective Investment Schemes**

The Supreme Court of India in the recent case law ruled on the applicability of the regulatory regime relating to collective investment schemes (“CIS”). In Securities and Exchange Board of India v. Gaurav Varshney, the legal question was rather straightforward. On 25 January 1995, section 12(1B) was inserted into the Securities and Exchange Board of India Act, 1992 (the “SEBI Act”). It provided that no person shall carry out a CIS unless he or she obtains a certificate of registration from the Securities and Exchange Board of India (“SEBI”) “in accordance with the regulations”. However, the “regulations” referred to in the said provision were enacted by SEBI only with effect from 15 October 1999 in the form of the SEBI (Collective Investment Schemes) Regulations, 1999 (the “CIS Regulations”). In the interim, on 3 July 1995, the respondents in the principal appeal, Gaurav Varshney and Vinod Kumar Varshney, began carrying out CIS operations through a company they incorporated. The legal question therefore was whether by carrying out CIS activity during the period when section 12(1B) (that imposes a bar on such activity without registration) was in force but not the CIS Regulations (that prescribe the mode of obtaining SEBI approval), the Varshneys were in breach of the legal regime so as to be subject to criminal action. The High Court below quashed SEBI’s action under section 482 of the Criminal Procedure Code. It is against this decision that SEBI appealed before the Supreme Court.

### ***The Ruling***

In answering the legal question, the Supreme Court interpreted section 12(1B) of the SEBI Act, which reads as follows:

No person shall sponsor or cause to be sponsored or carry on or cause to be carried on any venture capital funds or collective investment scheme including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or cause to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment scheme operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995 for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.

After analyzing the provision, the Supreme Court concluded that it has two parts. The first, signified by the main provision, relates to persons who had not commenced CIS activity prior to 25 January 1995, when the provision was brought into force, i.e. those who began the business afresh after that date. The second, signified by the proviso, relates to those who were carrying on CIS activity even prior to that date, i.e. existing activity. After doing so, the Court concluded that the case relating to the Varshneys would fall within the first part of section 12(1B), i.e. new activity. The question therefore was whether the bar against commencement of CIS activity after 25 January 1995 (when section 12(1B) came into force) would operate from that date or only when the regulations prescribed by SEBI thereunder came into force. Here, the court was emphatic in its conclusion that the bar against commencing CIS activity without registration would operate with effect from the date that the statutory provision (i.e. section 12(1B)) came into force and not only when the regulations were notified. The Court observed:

... Our inevitable conclusion is, that sponsoring or carrying on any collective investment activity, for the first time, on or after 25.1.1995, was a complete bar, in the absence of a certificate of registration from 'the Board'. It accordingly follows, that if a person/entity had commenced to sponsor or carry on a collective investment scheme after 25.1.1995, without obtaining a certificate of registration from 'the Board', it would tantamount to breaching the express mandate contained in Section 12(1B) of the SEBI Act.

In our considered view, there can be no doubt, that the date when the Collective Investment Regulations came into force (15.10.1999), has no relevance, insofar as the breach of Section 12(1B) of the SEBI Act, with reference to such new entrepreneurs, is concerned. The bar to sponsor or cause to be sponsored, or carry on or cause to be carried on any collective investment activity by a new entrepreneur (who had not commenced the concerned activities, before 25.1.1995) under Section 12(1B) of the SEBI Act, was not dependent on the framing of the regulations. The above bar was absolute and unconditional, till the new entrepreneur (described above) obtained a certificate of registration, in accordance with the regulations. ...

Although on this legal question the Supreme Court held in favour of SEBI, it upheld the decision of the High Court below in quashing the criminal proceedings against the Varshneys. This was on account of procedural issues. The Court placed considerable emphasis on the fact that SEBI's complaint was made under the proviso category, i.e. where a person was carrying on existing CIS activity when section 12(1B) was brought into force. On the other hand, the complaint ought to have been made under the non-proviso category, i.e. in respect of new businesses that were commenced after the section as brought into force on 25 January 1995. This distinction was found

to be rather crucial, and the fact SEBI proceeded under the wrong category was found to be fatal to its prosecution.

Hence, while the substantive legal question was decided in favour of SEBI, the procedural question was answered for the benefit of the Varshneys, due to which SEBI's complaint against them was quashed. Apart from the case relating to Varshneys, the Supreme Court also dealt with the disposed off certain related appeals on similar and other related questions.

## **Implications**

From a broader perspective, the Supreme Court's decision has implications on restrictions of commercial activity imposed by legislation, especially when such activity is subject to licensing or registration requirements. Since such restrictions are subject to detailed rules or regulations to be promulgated by the regulatory authorities, the decision has implications on how persons may carry out such activities between the time that the legislation has imposed a restriction and before the regulatory authorities promulgate the rules or regulations. The Court's resounding answer is that the activity cannot be carried out in the interim, and this operates as a total prohibition. That prohibition will be lifted only when the rules or regulations are subsequently promulgated. The issue becomes even more acute when there is a considerable delay between the imposition of the legislative restriction and the subsequent promulgation of the rules or regulations, as was the case with section 12(1B) and the CIS Regulations, which faced a delay of over three years. This puts affected parties at a disadvantage, as no CIS activity could have been carried on in the interim period. The lesson from this decision for the regulatory authorities would be that they ought to institute mechanisms for licensing or registration as soon as any such restrictions are imposed by legislation, without any delays in the interim.

On the other hand, the procedural aspect of the decision has the impact of imposing an onerous burden on the regulators in that they are required to be more specific regarding the offence that has been committed by a party. In circumstances

such as in the present case, where section 12(1B) contains two parts, i.e. for existing businesses and new businesses, the regulator will have to specify whether the violation in a given case is under either of the two parts. If the regulator fails to do so, then prosecution for an offence under the SEBI Act could end up being futile as it turned out in the present case.

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