

### NEWS CHRONICLE

August, 2018

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**GLOSSARY** 

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#### At A Glance

#### ACQUISORY NEWS CHRONICLE AUGUST, 2018

Common Application Form for Registration with SEBI, Bank KYC, PAN Application

The Government has notified Common Application Form for registration of Foreign portfolio Investor (FPI) with SEBI, Know Your Customer (KYC) for opening bank and Demat account and application for PAN by FPIs in India.

➤ MCA extends due date of DIR 3KYC / E-KYC of Directors upto 15<sup>th</sup> September, 2018

MCA extends the last date of filing DIR -3KYC without any filing fees upto 15<sup>th</sup> September, 2018. The fees of INR 5,000/- shall be applicable & payable on all delayed filings w.e.f 16<sup>th</sup> September, 2018.

> CBDT Amends Format of Form No. 3CD w.e.f. 20th August, 2018

CBDT has Amended Income Tax Audit Form No. 3CD with effect from 20th August, 2018 to incorporate further reporting requirement related to

- Goods and Service Tax (GST),
- Transfer pricing,
- Statement of Financial Transactions, Section 32AD,
- Income from other sources as referred to in clause (x) of sub-section (2) of section 56,

- Secondary adjustment to transfer price section 92CE,
- Limitation of Interest deduction u/s 94B, section 269ST-
- Cash Receipt / Payment of More than 2 Lakh from a single person in a day,
- Deemed Dividend- Section 2(22)(e),
- General anti-avoidance rule chapter X-A,
- Furnishing of report in respect of international group etc.

## ➤ CBDT Notifies Rule 11UAB Determination of fair market value for inventory

CBDT Notifies Income Tax Rule 11UAB Determination of fair market value for inventory and amended Rule 11U related to Meaning of expressions used in determination of fair market value.

➤ Online IEC applications — Revised Guideline — Digital Signature not required for submitting IEC applications

Digital signature for submitting applications for fresh Importer-Exporter Code (IEC) or amendment of IEC not required w.e.f. 9<sup>th</sup> August, 2018.

#### RBI Update

#### Master Circular – Facility of Exchange of Notes and Coins

RBI has issued the Master Circular w.r.t. Facility for Exchange of Notes and Coins. RBI has directed that all branches of banks in all parts of the country re mandated to provide the following customer services, more actively and vigorously to the members of public so that there is no need for them to approach the RBI Regional Offices for this purpose:

- Issuing fresh / good quality notes and coins of all denominations on demand,
- Exchanging soiled / mutilated / defective notes, and
- Accepting coins and notes either for transactions or exchange.

#### https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11316&M ode=0

#### RBI makes name of Purchaser mandatory on DD/ PO/ Bankers Cheque to curb misuse of money

- RBI has mandated for Incorporation of Name of the Purchaser on the Face of the Demand Draft. In order to address the concerns arising out of the anonymity provided by payments through demand drafts and its possible misuse for money laundering,
- These instructions shall take effect for such instruments issued on or after September 15, 2018.
- Accordingly, Section 66 of the Master Direction on KYC dated February 25, 2016, as amended on April 20, 2018, has been amended.

https://www.rbi.org.in/SCRIPTS/NOTIFICATIONUSER.ASP X?ID=11332&MODE=0

#### MCA Update

MCA notifies the appointed date as 31<sup>st</sup> July, 2018 on which the provision of Section 36 (Section 134 of the Companies Act, 2013 – Financial Statement and Board's Report etc.) of the Companies Amendment Act, 2017 shall come into force

The Ministry of Corporate Affairs has notified the appointed date as 31st July, 2018 on which the provision of Section 36 (Section 134 of the Companies Act, 2013 – Financial Statement and Board's Report etc.) of the Companies Amendment Act, 2017 shall come into force. According to amendments, the financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors shall also be signed by the Chief Executive Officer, the Chief Financial Officer and the Company Secretary of the Company along with the Director of the Company, and in the case of One Person Company, only by one director, for submission to the auditor for his report thereon. Where any of the disclosures as referred have been included and made part of the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report. Further, provisions of Abridged Board's report by One Person Company or Small Company have been notified.

#### http://www.mca.gov.in/Ministry/pdf/CommencementNot3107\_ 06082018.pdf

MCA notifies the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2018 and shall come into force w.e.f. 7th August, 2018

MCA has notified the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2018, which shall come into force from the date of their publication in the Official Gazette i.e 07-08-2018. Ministry of Corporate Affairs has notified the amended Section 42 and its corresponding Rule No. 14 of the Companies Act, 2013 with effect from August 07, 2018. Amendments made in the revised section 42 and its corresponding rules such as the requirement of the value of offer or invitation per person of INR 20,000/- of face value of the securities has been done away with. Company is no longer permitted to utilize the share application

money received by it unless (i) allotment is made; and (ii) the return of allotment, in e-form PAS – 3, is filed with the Registrar of Companies. Further, time period for filing e-form PAS – 3 is now required to file within 15 days of allotment instead of 30 days. Separate penal provisions for non-filing of e-form PAS – 3 introduced, the company, its promoters and directors shall be liable with a penalty INR 1,000/- per day but not exceeding INR 25,00,000/- for delayed filings. Further, the penal provision has been revised from 'the amount involved in the offer or invitation or Rupees Two Crore, whichever is higher" to 'the amount involved in the offer or invitation or Rupees Two Crore, whichever is lower".

#### http://www.mca.gov.in/Ministry/pdf/RuleProspectusSecurities 07 08082018.pdf

Companies Rules Amended to Mandate
Disclosure of Compliance with Sexual
Harassment Act

Ministry of Corporate Affairs has amended Companies (Accounts) Rules, 2014 to mandate the disclosure regarding the implementation of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in the Directors' Report of every company.

➤ IBBI issues instructions w.r.t. Notice for Meetings of the Committee of Creditors (CoC) must contain that the meeting of the CoC should be represented by such persons who are competent and are authorised to take decisions on the spot

IBBI has issued instructions that the Notice for Meetings of the Committee of Creditors must contain that the meeting of the CoC should be represented by such persons who are competent and are authorised to take decisions on the spot. It was observed in number of cases that Members of the CoC are nominated by Financial Creditors like Banks without conferring upon them the authority to take decision on the spot which acts as a block in the time bound process contemplated by the Insolvency and Bankruptcy Code, 2016. Such like speed breakers and roadblocks cause obstacles to achieve the targets of speedy disposal of the CIR process. As, the Section 24(3)(a) of the Code requires the resolution professional to give notice of each meeting of

#### MCA Update

the CoC to members of the CoC and other persons and in view of the above, the interim resolution professional orthe resolution professional, as the case may be, is directed that he shall, in every notice of meeting of the CoC and any other communication addressed to the financial creditors, other than creditors under section 21(6A)(b), require that they must be represented in the CoC or in any meeting of the CoC by such persons who are competent and are authorised to take decisions on the spot and without deferring decisions for want of any internal approval from the financial creditors.

http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Aug/coc%20c ircular-1\_2018-08-10%2019:37:16.pdf

## Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 notified

Ministry of Law and Justice notifies Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 vide notification No. 26 of 2018 dated 17th August, 2018. It shall be deemed to have come into force on the 6th day of June, 2018.

## Last date of DIR-3 KYC extended upto 15th Sept, 2018

MCA has extended the last date of filing DIR -3KYC without any filing fees upto September 15, 2018 from August 31, 2018. The fees of ₹5,000/- shall be applicable & payable on all delayed filings w.e.f September 16, 2018. MCA has also revised the form DIR-3 KYC.

http://www.mca.gov.in/Ministry/pdf/CoRegistrationRule21\_22 083018.pdf

http://www.mca.gov.in/Ministry/pdf/AppointmentQualification Rule21\_22082018.pdf

# ➤ MCA issues clarification w.r.t. individuals who are in possession of Duplicate/Multiple DINs, can retain the Oldest DIN only. DINs obtained later have to be surrendered

MCA has clarified that as per the extant rules, in respect of an individual who is in possession of Duplicate/Multiple DINs, he can retain the Oldest DIN only. DINs obtained later have to be surrendered. Further DIN once associated is NOT eligible for surrender. Application for surrender of DIN in e-form DIR-5 can be filed with any reason such as DIN is unused and not intended for future reference also or multiple DINs are allotted to same person or DIN holder is no more/has become of unsound mind or insolvent etc. This application will further be processed by RD-north region. The eForm DIR-5 is required to be filed pursuant to Section 153 of the Companies Act, 2013 & Rule 11 (f) of Companies (Appointment and Qualification of Directors) Rules, 2014.

#### SEBI Update

## SEBI issues Circular w.r.t. discontinuance of registration of Sub-Brokers as a Market Intermediary

SEBI has decided to discontinue with the registration of Sub-Brokers as a market intermediary. No fresh registration shall be granted to any person as Sub-Broker. Any pending applications for registration as Sub-Brokers under process, shall be returned to the concerned Stock Exchanges for onward transmission to the applicant. The registered Sub-Brokers shall have time till March 31, 2019 in order to migrate to act as an AP and / or Trading Member (TM). The Sub-Brokers, who do not choose to migrate into AP and /or TM, shall deemed to have surrendered their registration with SEBI as Sub-Broker, w.e.f. March 31, 2019. Under the current regulatory framework, Sub-Brokers ('SB') need to seek registration from SEBI under SEBI (Stock Broker and Sub-Broker) Regulations, 1992, and Authorized Persons ('AP') need to seek registration from the concerned Exchange. There is no difference in the operative role of a Sub-Broker and that of an Authorized Person. Further, The Stock Exchanges are directed to bring the provisions of this circular to the notice of the Stock Brokers and Sub-Brokers, and make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary.

https://www.sebi.gov.in/legal/circulars/aug-2018/role-of-sub-broker-sb-vis-a-vis-authorized-person-ap-39825.html

#### > SEBI issues Clarification w.r.t. Electronic Book Mechanism for issuance of Securities on private placement basis

SEBI vide its circular has clarified Electronic book mechanism for issuance of securities on private placement basis. With a view to further rationalise and ease the process of issuance of securities on EBP platform and in consultation with the market participants, it has been decided to provide for the some additional facilities like

- Closed bidding in addition to the current system of open bidding, closed bidding shall also be permitted on EBP platform subject to the issuer disclosing the mode of bidding in the PPM/IM;
- Multiple yield allotment through which an issuer can choose either uniform yield or multiple yield allotment, provided the same is disclosed in the PPM/IM.

- Further, Multiple bids by an investor Investors are now permitted to place multiple bids in an issue.
- Depositories to act as EBP In addition to the Stock Exchanges, Depositories can also act as EBP. The contents of this circular will come in effect from October 01, 2018.

https://www.sebi.gov.in/legal/circulars/aug-2018/electronic-book-mechanism-for-issuance-of-securities-on-private-placement-basis-clarifications- 40007.html

#### ➤ SEBI Extends Deadline for FPIs to Provide List of Beneficial Owners

SEBI has extended the deadline by two months till December for providing a list of beneficial owners by Foreign Portfolio Investors (FPIs), and assured them that issues raised will be looked into by an expert panel.

#### SEBI issues Circular for Extension of Trading Hours of Securities Lending and Borrowing (SLB) Segment

SEBI, with a view to facilitate physical settlement of equity derivatives contracts, market regulator has extended the trading timings in the securities lending and borrowing (SLB) segment till 5 pm. Currently, trading is allowed in the segment from 9.55 am till 3.30 pm. The SLB mechanism allows short-sellers to borrow securities for making deliveries. The move is aimed at facilitating physical settlement of equity derivatives contracts. The decision comes after the markets watchdog in May permitted exchanges to extend the trading time in equity derivatives contracts bv more than eight hours almost midnight from October 1. The extended timing is similar to the trading hours for commodity derivatives segment, which is presently fixed between 10 am and 11.55 pm. The move was part of SEBI's efforts to enable integration of stocks and commodities trading on a single exchange.

https://www.sebi.gov.in/legal/circulars/aug-2018/extension-of-trading-hours-of-securities-lending-and-borrowing-slb-segment 40091.html

#### Tax Update

CBIC extends the time limit for furnishing the return by an Input Service Distributor in Form GSTR-6 for the months of July 2017 to August 2018 till 30<sup>th</sup> September, 2018

The Central Board of Indirect Taxes and Customs (CBIC) has extended the time limit for furnishing the return by an Input Service Distributor in FORM GSTR-6 under Section 39(4) of the Act read with Rule 65 of the Central Goods and Services Tax Rules, 2017, for the months of July, 2017 to August, 2018 till the 30th day of September, 2018. GSTR 6 is a monthly return that has to be filed by an Input Service Distributor. It contains details of ITC received by an Input Service Distributor and distribution of ITC. GSTR 6 contains details of all the documents issued for distribution of Input Tax Credit and the manner of distribution of credit and tax invoice on which credit is received. GSTR 6 is required to be filed by every Input Service Distributor even if it is a nil return by 13th of next month.

http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-30-2018-central tax-

<u>English.pdf;jsessionid=DC0245E9A8C07177C283A2766EE39</u>
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## Solution Solution

GST Council has approved the decision to give incentives on digital payments using BHIM app. The Council approved 20% cashback for the transaction via BHIM app.

#### > CBIC Exempts GST on Ambulance Services

Central Board of Indirect Taxes and Customs (CBIC) has exempted Goods and Services Tax (GST) on Ambulance Services provided to Government by Private Service Providers (PSP) under the National Health Mission (NHM).

## President Gives Assent to Fugitive Economic Offenders Act 2018

Fugitive Economic Offenders Act 2018 of Parliament has received the assent of the President and has been notified in the official gazette.

➤ Online IEC applications – Revised Guideline – Digital Signature not required for submitting IEC applications

Digital signature for submitting applications for fresh Importer-Exporter Code (IEC) or amendment of IEC will not be required w.e.f. 9.8.2018.

Following the integration of PAN web service of CBDT with DGFT's web server and automatic system based verification of PAN details with PAN database of CBDT, requirement of Digital Signature for submitting IEC applications is being done away with.

## No need to report clause 30C (GAAR) & 44 (GST) of Revised 3CD Report till 31.03.2019

It has been decided by the CBDT that reporting under the proposed clause 30C and proposed clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2019. Therefore, for Tax Audit Reports to be furnished on or after 20th August, 2018 but before 1st April, 2019, the tax auditors will not be required to furnish details called for under the said clause 30C and clause 44 of the Tax Audit Report.

### CBDT proposes online issue of certificate for no /lower deduction of tax

CBDT has felt that the existing Form No. 13 and relevant rules are required to be rationalised. Hence, in order to rationalise and make the process of issuance of certificate for no deduction of tax or deduction/collection of tax at lower rate electronic / Online, the existing Form No.13 and relevant rules are required to be amended. Accordingly, certain amendments in Form No. 13, and rules 28, 28AA, 28AB, 37G and 37H of the Income-tax Rules, 1962 are proposed.

# CBIC-GST – Government extends the last date of filing GST summary Sales Return in Form GSTR-3B for the month of July to August 24, 2018

The government has extended the last date for filing of GST summary sales returns in Form GSTR -3B for the month of July to August 24 from the original date of August 20, for all class of taxpayers by the competent authority. There were instances of technical glitches faced on August 20 in filing the return, which was the last date for submission of GSTR 3B. However, it may be noted that the CBIC has set separate

#### Tax Update

deadline for taxpayers of the State of Kerala, Mahe (Puduchery) and Kodagu (Karnataka), accordingly the GSTR-3B for the month of July can now be filed by October 5 and the returns for the month of August can now be filed by October 10 by the residents of these areas.

http://www.cbic.gov.in/resources//htdocs-cbec/pressrelease/LastDate\_GSTR-3B.pdf

#### Extension of date for filing of Income Tax Returns for taxpayers in Kerala

CBDT extends the due date for furnishing return of income, from 31st August, 2018 to 15th September, 2018, in case of Income-tax assessees in the State of Kerala, who are liable to file their Income-tax returns by 31st August, 2018.

#### Other Update

➤ Ministry of Law & Justice notifies The Specific Relief (Amendment) Act, 2018 – the act brings out the amendment in order to curtail discretionary powers of the Court while making an order for specific performance of contract

The Ministry of Law & Justice has notified the Specific Relief (Amendment) Act, 2018, shall come into force on such date as the Central Government may, by notification in the Official Gazette, notify. The Key features of the Amendment includes the Amendment substitutes Section 10 of the Act providing for Cases in which specific performance of contract is enforceable with a new Section 10 which states that specific performance of a contract shall be enforced by the court subject to the provisions contained in sub-section (2) of section 11, section 14 and section 16. Thus, through the aforesaid amendment, effort has been made to curtail discretionary powers of the Court while making an order for specific performance of the contract as the cases in which specific performance of contract is enforceable would be subject to Section 11(2) relating to contract made by Trustee in excess of his powers and Section 14 (contracts not specifically enforceable) and Section 16 (personal bars to relief). The amended Section 22 states where the contract is broken due to non-performance of promise by any party, the party who suffers by such breach shall have the option of substituted performance through a third party or by his own agency, and, recover the expenses and other costs actually incurred, spent or suffered by him, from the party committing such breach. The Amendment incorporates Section 20A which enumerates provision for contract relating to infrastructure project. Section 20A provides that the Court shall not grant any injunction in a suit under this Act involving a contract relating to an infrastructure project, where granting injunction would cause impediment or delay in the progress or completion of such infrastructure project.

#### http://www.egazette.nic.in/WriteReadData/2018/187919.pdf

The Negotiable Instruments (Amendment) Act, 2018 has been notified to primarily address issues of dishonour of cheques and to deal with unnecessary delay in disposal of such cases

The Negotiable Instruments (Amendment) Act, 2018 has been notified to primarily address issues of dishonour of cheques and to deal with unnecessary delay in disposal of such cases. The Negotiable Instruments (Amendment) Act aims to amend the Negotiable Instruments Act, 1881,

asking the drawer of a cheque that has been dishonoured to pay interim compensation to the complainant. In case the drawer of the cheque is acquitted in the case, the complainant has to repay the drawer the interim compensation with interest. The repayment has to be made within 60 days from the date of the court order.

#### http://www.egazette.nic.in/WriteReadData/2018/188048.pdf

President Gives Assent to Criminal Law (Amendment) Act

President has given assent to Criminal Law (Amendment) Act, 2018, that provides for stringent punishment, including death penalty for those convicted of raping girls below the age of 12 years.

Cabinet approves Memorandum of Understanding (MoU) between India and USA in insurance regulatory sector

The Union Cabinet has approved the signing of a Memorandum of Understanding (MoU) between Insurance Regulatory and Development Authority of India (IRDAI) and the Federal Insurance Office, USA.

The MoU provides a framework for cooperation and coordination, including for the exchange of information and research assistance with respect to each Authority's overview and other lawful responsibilities. Under the agreement, both the countries intend to share their experiences on various regulatory functions and to provide mutual assistance including training activities. India and USA have also agreed to continue to facilitate cooperation on international standard-setting activities, financial stability and the development and implementation of consumer protection through sound prudential regulation of the insurance sector.

Cabinet approves additional 2 percent Dearness Allowance (DA) for Central Government employees and Dearness Relief (DR) to pensioners w.e.f. 1st July, 2018

The Union Cabinet has approved to release an additional instalment of Dearness Allowance (DA) to Central Government employees and Dearness Relief (DR) to pensioners w.e.f. 01.07.2018 representing an increase of 2% over the existing rate of 7% of the Basic Pay/Pension, to compensate for price rise.

### $\underline{Glossary}$

| CBDT    | Central Board of Direct Taxes                  | MCA   | Ministry of Corporate Affairs           |  |
|---------|--|-------|---|--|
| CGST    | Central Goods and Service Tax                  | MoU   | Memorandum of Understanding             |  |
| CA 2013 | Companies Act 2013                             | MSME  | Micro Small and Medium Enterprises      |  |
| DIN     | Director Identification Number                 | NCLAT | National Company Law Appellate Tribunal |  |
| ETF     | Exchange Traded Fund                           | NCLT  | National Company Law Tribunal           |  |
| FPI     | Foreign Portfolio Investors                    | NBFC  | Non Banking Financial Company           |  |
| FRDI    | Financial Resolution & Deposit Insurance       | NPA   | Non-Performing Assets                   |  |
| FDI     | Foreign Direct Investment                      | NRI   | Non resident Indian                     |  |
| GST     | Goods and Services Tax                         | ОТР   | One Time Password                       |  |
| GIC     | GST Implementation Committee                   | OCI   | Overseas Citizens of India              |  |
| ICDS    | Income Computation and Disclosure<br>Standards | PAN   | Permanent Account Number                |  |
| IGST    | Integrated Goods and Services Tax              | PIO   | Person of Indian Origen                 |  |
| ITC     | Input tax Credit                               | RBI   | Reserve Bank Of India                   |  |
| IFRS    | International Financial Reporting<br>Standards | ROC   | Registrar of Companies                  |  |
| ITR     | Income Tax Return                              | SEBI  | Securities and Exchange Board of India  |  |
| IBC     | Insolvency and Bankruptcy Code                 | TAN   | Tax Account Number                      |  |
| IPs     | Insolvency Professionals                       | UTGST | Union Territory Goods and Service Tax   |  |
| Ind AS  | Indian Accounting Standards                    | VAT   | Value Added Tax                         |  |
| IBBI    | Insolvency and Bankruptcy Board of India       | IEPF  | Investor Education and Protection Fund  |  |
| IUs     | Information Utilities                          | ISD   | Input Service Distributer               |  |

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- Security
  ManagementServicesFraud &
- Forensics
  Technology
  Risk
- Solution Security
- RiskManagement
- Creative Training
- Solution

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