



# Brahmayya Bulletin

March 2017

## Editorial

Transform, Energise and Clean India. This is the mantra and the motto of the Union Budget 2017-18. Finance Minister Shri. Arun Jaitley aptly quoted the father of the nation to justify the vision. "A right cause never fails," he said while referring to demonetization, adding that the move 'seeks to create a new normal, wherein the GDP would be bigger, cleaner and real' which is amply reflected in tax proposals. He presented a progressive, futuristic and growth-oriented Union Budget 2017-18 aimed at a vibrant and changing India. It will pave the way for emergence of a strong rural-social sector, infrastructure sector, finance sector and an overall economically vibrant India with enhanced ease of doing business. The Budget proposals will not only support the small taxpayers but will also counter tax evasion.

It has to be appreciated that this Budget positively pays heed to the significant issues of MAT & tax administration reforms. The issue relating to the requirement of specific provisions for computation of MAT in case of Ind AS compliant companies has been addressed. Since certain companies have already become Ind AS compliant from FY 2016-17, incorporation of requisite provisions in the Income Tax Act, 1961, was the need of the hour. The absence of any reference to GAAR in the Budget Speech further confirmed by absence of specific provision in the Finance Bill, 2017 for deferment of GAAR leads to an inference that GAAR would come into play from 1st April, 2017. The clarifications given by the CBDT have several riders and therefore the tax implications of GAAR on the transactions and businesses need to be clarified.

Moving a step closer towards implementing the GST from 1st July, the GST Council recently approved two crucial supporting legislations for this ambitious tax reform. In its eleventh meeting, the Council approved the drafts of the Central GST law (CGST) and the Integrated GST (IGST) law. The Council met again on 16th March 2017 to clear the State GST law (SGST) and the Union Territory GST law (UTGST). Once all the bills are passed by the Council, the Union government will collectively take the bills to the Union cabinet for its approval. Subsequently, the bills will be tabled together in Parliament.

As we come to the end of this financial year, wishing all our readers an eventful new fiscal 2017-18 in advance!!

Policy Directive Order Instruction Update Clarification  
**Ministry of Corporate Affairs** Circular  
Rule Enactment Notification Guideline  
Framework Update Policy Instruction  
**Central Board of Direct Taxes**  
Order Notification Regulation Instruction  
Notice Circular Update Notification  
**Central Board of Excise and Customs**  
Directive Order Notification Enactment  
Pronouncement Announcement Framework Rule  
**Foreign Exchange Management Act**  
Instruction Order Clarification Directive Interpretation  
**Institute of Chartered Accountants of India**  
Circular Order Clarification Directive Framework  
**Reserve Bank of India**  
Announcement Framework Notification Clarification  
Notification Order Rule  
Instruction Order  
Framework Circular  
Update

## Ministry of Corporate Affairs (MCA)

### G.S.R. 258(E) - Dated 17th March 2017

MCA has notified the Companies (Indian Accounting Standards) (Amendment) Rules, 2017 which shall come into force on 1st April 2017.

Amendments have been carried out in Ind AS 102 "Share-based Payment" and Ind AS 7 "Statement of Cash Flows".

#### *Amendments in Ind AS 102*

- Para 19 has been amended to correct the omission regarding consideration of "other market condition" along with vesting condition. Amended Para 19 now states that "Vesting condition, other than market condition, shall be taken into account by adjusting the number of equity instruments included in the measurement of the transaction amount so that, ultimately, the amount recognized for goods or services received as consideration for the equity instruments granted shall be based on the number of equity instruments that eventually vest. Previously it was felt that "other market conditions" have also to be factored in the measurement of transaction amount. However, market conditions have to be considered while estimating fair value of the shares/options.
- Para 30 required the entity to measure goods or services acquired and the liability incurred at the fair value of the liability and re-measurement of such fair value at the end of each reporting period and at the date of settlement, with any changes in fair value recognized in profit or loss for the period. Now, this has been made subject to the requirements of Para 31-33D.

- Para 31 does not contain any significant amendment and is pertaining to usage of share appreciation rights which is an example of cash-settled share-based payment transactions.
- Para 33 specifies usage of option pricing model for arriving at fair value of share appreciation rights and mandates taking into account the terms and conditions on which such rights were granted and the extent to which the employees have rendered service upto that date. Now, by amendment, this has been made subject to requirements of Para 33A-33D. Also, an entity might modify the terms and conditions on which a cash-settled share-based payment is granted. Guidance for modification of a share-based payment that changes its classification from cash-settled to equity-settled is given in newly inserted paragraphs B44A-B44C in Appendix B.
- Para 33A to 33D have been newly inserted and pertains to treatment of vesting and non-vesting conditions for cash-settled share-based payment transactions.
- Para 33E to 33H have been newly inserted and pertains to share-based transactions with a net settlement feature for withholding tax obligations.
- Para 52 has been substituted and now includes illustration, to provide for additional disclosures required to satisfy the principles of para 44, 46 & 50.
- Para 53-59 and 60-63C in IFRS 2, relating to transitional provisions and effective date, respectively, have now been retained in Ind AS 102 to maintain consistency.

- In Appendix B, Para B44A-B44C have been inserted and pertains to accounting for a modification of a share-based payment transaction that changes its classification from cash-settled to equity settled.

#### *Amendments in Ind AS 7*

Para 44A-44E has been inserted and pertains to disclosure requirements with regard to changes in liabilities arising from financing activities, including changes arising from cash flows and non-cash changes.

### S.O. 988(E) and S.O. 989(E) - Dated 27th March 2017

Previously, Section 5 of the Competition Act, 2002, exempted mandatory notice of combination, if an enterprise, whose shares, controls, voting rights or assets are being acquired has either assets of value not more than Rs. 350 Crores or turnover of not more than Rs. 1,000 Crores. It was noted by the Government that the said notification was being applied to combinations which resulted only from acquisition and not to cases of merger/amalgamation /acquiring of control. It was also noted that relevant assets/turnovers attributable to the target segment/ portion/ business were not being considered and instead the transferor's total assets and turnover being considered for determining the applicability of the said exemption.

Vide these Notifications, the Government intends to provide clarity on the following aspects:

- The applicability of the threshold exemption limits to all forms of combinations envisaged under Section 5 of the Competition Act.
- The methodology to be adopted for calculating the relevant assets and turnover of the target when only a portion or segment or business of one enterprise is being combined with another.

Consequent to this notification, combinations falling within the threshold limit will not be required to be filed before the Competition Commission of India.

#### **G.S.R. 308 (E) - Dated 30th March 2017**

Vide this notification, Schedule III to Companies Act, 2013 has been amended. Amendment has been carried out in Paragraph 6 of Part I under "General instructions for preparation of Balance Sheet", Division I of Schedule III to the Act. Clause X has been inserted to provide that every Company shall disclose the details of Specified Bank Notes (SBN) held and transacted during the period from 8th November, 2016 to 30th December, 2016 as provided in the format given in the Notification. Similar amendment has been brought in Division II for companies whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015.

Consequent to this amendment, the financial statements of ALL companies for financial year ended 31st March, 2017 shall compulsorily provide information of SBN's, other denomination notes and Total cash in the following format:

- Closing cash in hand as on 8.11.2016
- (+) Permitted Receipts
- (-) Permitted Payments
- (-) Amounts deposited in Banks
- Closing cash in hand as on 30.12.2016

#### **G.S.R. 307 (E) - Dated 30th March 2017**

In conjunction to the above amendment related to disclosure of SBN's, there is a corresponding amendment brought in by Companies (Audit and Auditors) Amendment Rules, 2017 to amend the erstwhile 2014 Rules.

Following clause has been inserted in Rule 11:

"(d) whether the company had provided requisite disclosures in its financial statements as to holdings as well as dealings in Specified Bank Notes during the period from 8th November, 2016 to 30th December, 2016 and if so, whether these are in accordance with the books of accounts maintained by the company."

Rule 11 pertains to "Other matters to be included in auditors report". It has been made mandatory for the auditors to disclose above mentioned information in their audit report for the financial year ended 31st March, 2017.

#### **G.S.R. 309(E) - Dated 30th March 2017**

Central Government has notified the Companies (Meetings of Board and its Powers) (Amendment) Rules, 2017 to amend the erstwhile 2014 Rules. Amendment relates to "Contract or arrangement with a related party" pertaining to transactions like, sale, purchase, supply, selling or otherwise disposing, leasing, availing or rendering of service, under Rule 15(3)(a) read with Section 188(1) of Companies Act, 2013.

- The usage of the terms "exceeding ten per cent" wherever they occur, shall be replaced with the term "amounting to ten per cent or more".
- The usage of the terms "ten per cent of turnover", shall be replaced with the term "ten per cent or more of turnover".

#### **Central Board of Direct Taxes (CBDT)**

#### **Notification No. 02/2017 – Dated 9th March 2017**

Pursuant to Notification No. 9/2017 dated 9th February 2017 pertaining to application for PAN through a common application form, covered in our February Bulletin, it is now notified that the Principal Director General of Income Tax (Systems) lays down the classes of persons, forms, format and procedure for PAN application.

- *Classes of persons to which SPICe form will apply* – Newly incorporated Company
- *Applicable Form* - SPICe (Form No. INC-32)
- *Procedure* - Application for PAN will be filed in SPICe (Form No. INC-32) using Digital Signature of the applicant specified by MCA. After generation of CIN, MCA will forward data in Form 49A to prescribed Income Tax Authority
- *Format* - XML

#### **Circular No. 9 of 2017 - Dated 14th March 2017**

In our January Bulletin, we had provided a brief summary on the commencement of Pradhan Mantri Garib Kalyan Yojana, 2016 and the clarification issued by CBDT through FAQ's.

Subsequent to the issue of above mentioned FAQ, representations had been received from various stakeholders seeking clarification as to whether the deposits made in bank account or cash in hand which are eligible for being declared under the Scheme should exist on the date of filing declaration under the Scheme. In this context, this circular clarifies the following:

- *Undisclosed Income is in the form of deposits* - Existence of deposits not necessary as on date of making payment / furnishing declaration under the Scheme.
- *Undisclosed Income is in the form of cash* - Such cash should exist on the date of making payment of tax, surcharge, and penalty or on the date of making deposit under the Scheme, whichever is earlier.

#### **Notification No. 16/2017 - Dated 22nd March 2017**

CBDT has amended Notification number S.O. 2483(E), dated 30th September 2009 pertaining to jurisdiction of income-tax authorities and now the CIT, CPC, Bengaluru has jurisdiction over all cases where return has been furnished in electronic form and paper form. Previously, the original returns being submitted in paper form was out of jurisdiction of CIT, CPC, Bengaluru. Also jurisdiction pertaining to paper form was only restricted to state of Karnataka and Goa.

#### **Circular No. 10 of 2017 - Dated 23rd March 2017**

CBDT had notified 10 Income Computation and Disclosure Standards (ICDS) vide Notification No. S.O.892 (E) dated 31st March, 2015 with effect from AY 2016-17. An Expert Group was formed to resolve issues in ICDS implementation, which recommended certain amendments to provisions of ICDS and issuance of clarifications. Accordingly, Central Government amended applicability to AY 2017-18 vide Notification No. 87 dated 29th September, 2016. Vide this Circular, CBDT has issued clarification in respect of certain issues which are discussed in detail in the "Our News" section of our website.

#### **Circular No. 11 of 2017 - Dated 24th March 2017**

Chief Commissioner of Income Tax and DGIT have been empowered to reduce or waive interest charged under Section 201(1A)(i) of the Income Tax Act in certain cases, provided that the principal demand under sections 200A, 201(1) or 234E stands fully paid or satisfactory arrangement for payment of same has been made. Cases include instances like:

- disability of assessee to deduct tax with regards to sum credited to any account due to seizure of books of account
- sum deducted found to be lower due to subsequent amendment in law or subsequent ruling of superior court

- default relates to non-deduction/lower deduction under section 195 of the Act in respect of a payment made to Non-Resident being resident of a country with whom India has entered into an agreement u/s 90 or 90A of the Act and dispute relating to it has been referred to Competent Authority or has been settled by way of resolution arrived under Mutual Agreement Procedure.

Further, the Circular provides that, even if the interest u/s 201(1A)(i) has already been paid by the deductor, the same can be considered for waiver and a refund may be given to the deductor, if waiver is ordered. The Board reserves the power to examine any grievance arising out of the order passed or not passed by the Chief Commissioner or DGIT.

#### **Notification No. 21/2017 - Dated 30th March 2017**

CBDT has notified new ITR forms to enable assesses to file returns and also provided the modalities of furnishing tax returns.

- CBDT has notified simplified one page form 'ITR-1 Sahaj' for individuals earning income from salary, pension, one house property and income from other sources. It has removed columns which are not frequently used by the taxpayers. Schedules of TDS and TCS have been merged into one in order to make ITR 1 shorter and simpler. New columns have been inserted to report dividend income and long-term capital gains exempt under Section 10(34) and Section 10(38) respectively.



- A new column has been inserted in ITR Forms to report cash deposits in banks above Rs. 2 Lakhs during the demonetisation period, i.e., from November 9, 2016 to December 30, 2016.
- CBDT had prescribed new 'Form ITR 4 Sugam' for taxpayers opting for presumptive taxation scheme.
- A new column has been prescribed to mention digital receipts as the rate of presumptive income is 6% for such receipts.
- Quoting of Aadhar number in ITR has become mandatory.

Kindly visit "Our News" section of the website for further clarity on changes in ITR forms.

#### **Circular No. 12 of 2017 - Dated 31st March 2017**

CBDT has clarified that, if an assessee had made payment of tax, surcharge, penalty and deposit under the Pradhan Mantri Garib Kalyan Yojana, 2016, in the banks by the closing hours of 31st March, 2017 then the assessee shall be allowed to file declaration in Form No. 1 under the Scheme by the 10th of April, 2017. This has been done to address the issues faced by stakeholders in uploading Form No. 1 due to CIN/deposit reference numbers not being provided by banks.

#### **Central Board of Excise and Customs (CBEC) – Service Tax**

##### **Notification No. 10/2017 – Dated 8th March 2017**

CBEC has amended Entry 9, clause (b) of Notification No.25/2012, dated 20th June, 2012 (Mega Exemption Notification), which provided an exemption for services rendered such as transportation, catering, security etc. to an educational institution. Now, a proviso is inserted to the said entry to provide that such exemption is applicable only when the mentioned services are rendered to pre-school educational institutions and higher secondary schools or equivalent. This would come into force with effect from 1st April 2017.

#### **Central Board of Excise and Customs (CBEC) – Customs**

##### **Notification No. 28/2017 (N.T.) – Dated 31st March 2017**

CBEC has substituted certain clauses in rule 5 of the Deferred Payment of Import Duty Rules, 2016:

- For goods corresponding to Bill of Entry returned for payment from 1st day to 15th day of any month, the duty shall be paid by the 16th day of that month (previously it was 17th day of that month)
- For goods corresponding to Bill of Entry returned for payment from 16th day till the last day of any month other than March, the duty shall be paid by the 1st day of the following month (Previously it was 2nd day of the following month)

- For goods corresponding to Bill of Entry returned for payment from 16th day till the 31st day of March, the duty shall be paid by 31st March. (Previously duty up to 29th of March was allowed to be paid up to 31st March and for 30th and 31st March it was allowed to be paid till 2nd of April).

#### **Reserve Bank of India (RBI)**

##### **RBI/2016-17/251 IDMD. CCD. No.2347/14.04.051/2016-17 - Dated 16th March 2017**

Reserve Bank of India has clarified regarding the reference number that needs to be quoted under Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 in Form V while uploading the forms with Income Tax Authorities.

RBI has clarified that, once the details of deposit is entered into Bank's e-kuber application an "Issue Reference No." is generated. This reference number needs to be mentioned in Form V, while uploading the form with Income Tax Authorities.

#### **Foreign Exchange Management Act**

##### **FEMA 385/2017-RB - Dated 3rd March 2017**

The government through an amendment called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations 2017 has allowed Foreign Direct Investment (FDI) in Limited Liability Partnership (LLP).

Details related to the amendments are elaborated in the "Our News" section of our website.

#### **FEMA 387/2017-RB – Dated 9th March 2017**

The government through an amendment called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Fourth Amendment) Regulations 2017, has allowed 100% Foreign Direct Investment (FDI) through automatic route in the market place model of E-Commerce.

Details related to the amendments are elaborated in the “Our News” section of our website.

#### **Securities and Exchange Board of India (SEBI)**

##### **SEBI/HO/CFD/DCR1/CIR/P/2017/22 - Dated 15th March 2017**

SEBI has revised the time period for which information required to be filed with Board by the Merchant Banker through draft letter of offer and certain information about the acquirer, Target Company or promoter as per the prescribed format under Regulation 16 of SEBI (Substantial Acquisition of Shares and takeovers) Regulation. This amendment facilitates consistency with provision of Companies Act, 2013. The format and instructions prescribed vide Circular No. SEBI/CFD/DCR/SAST/1/2011/09/23 dated 23rd September, 2011 shall stand modified.

#### **SEBI/HO/MIRSD6/CIR/P/2017/20 - Dated 10th March 2017**

SEBI has made an effort to make the complaint redressal mechanism more effective by directing all the stock brokers and depository participants to address/redress the complaint within a period of 15 days of receipt of complaint. In case extra information required from the complainant above period can be extended by 7 days.

#### **Ministry of Labour and Employment**

The Maternity Benefit Act has been amended and notified on 28th March 2017. Key features are:

- Maternity leave available to the working women to be increased from 12 weeks to 26 weeks for the first two children. However, a woman with two or more children will be entitled to 12 weeks of maternity leave only.
- The Act introduces maternity leave up to 12 weeks for a woman who adopts a child below the age of three months, and for commissioning mothers. The period of maternity leave will be calculated from the date the child is handed over to the adoptive or commissioning mother.
- The Act requires every establishment with 50 or more employees to provide for crèche facilities within a prescribed distance. The woman will be allowed four visits to the crèche in a day.

- An employer may permit a woman to work from home, if the nature of work assigned permits her to do so. This may be mutually agreed upon by the employer and the woman.

- The Act requires an establishment to inform a woman of all benefits that would be available under the Act, at the time of her appointment. Such information must be given in writing and electronically.

#### **Institute of Chartered Accountants of India (ICAI)**

##### **Applicability of Standards on Auditing**

SA 700 (R), SA 701, SA 705 (R), SA 706 (R) dealing with Auditor's Opinion and reporting were approved by the Council of the ICAI in February 2016. These standards were effective for audits of financial statements for periods beginning on or after 1<sup>st</sup> April 2017. Members have requested ICAI to consider the deferment of applicability of these standards by a period of one year because the members are finding it difficult to implement them. After detailed deliberations the Council decided to defer their applicability by one year and consequently these standards shall apply for audits of financial statements for periods beginning on or after 1<sup>st</sup> April 2018. However the extant SA 700, SA 705 and SA 706 will continue to apply.

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