



Brahmayya Bulletin

May 2017

Editorial

With the changes in compliance requirements and presentation of financial statements from IGAAP to IND AS, the hectic month of May 2017 comes to an end. All the listed entities have published the results. Around 600 Companies have been covered in the first phase of IND AS implementation and have published the quarterly financial and annual financial statements for Financial Year 2016-17. While the corporates and professionals were busy with the audit and finalization of the financial statements, the Government and GST council has been proactive with approval of seven GST Rules in the meeting held on 18th and 19th May 2017. Followed by the Presidential assent, 12 states have passed the SGST.

Revenue Secretary Dr. Hasmukh Adhia has reviewed the IT preparedness for GST. Migration of the existing taxpayers is again open from 1st June 2017. With reporting compliance from financial statement perspective has largely settled, the glooming challenge of GST migration awaits. New Laws, New Regime and New Challenge!

CBDT has continued to keep the assessee busy with reporting compliance in regard to cash transactions. Specified Financial Transaction (SFT) reporting is a crucial compliance and requires adequate attention from the assessee. The SBN reporting in financial statements also required corporates to perform humungous data mining.

The RBI has finally taken up the matter relating to the stressed asset corrective action plan, which was not well implemented by the banks. The readers are well aware the economic slowdown in specific sectors have tendered several businesses unviable. Absence of quick action would further deepen the NPA's. More money lost is bad for the economy.

Readers are requested to check the "Our News" Section of our Website for more detailed updates on several rules and regulations.

Happy reading!

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 Order
Instruction
Framework
Update
Notification
Clarification
Rule
Order
Circular

Ministry of Corporate Affairs (MCA)

Notification No. G.S.R. 454(E) - Dated 11th May 2017

Companies (Acceptance of Deposits) Amendment Rules, 2017 has been notified by way of which any amount received by a company from "Domestic Venture Capital Funds" are scoped out from the definition of the term "deposits". Earlier, the relaxation was available with respect to amount received from Alternate Investment Funds, Domestic Venture Capital Funds and Mutual Funds registered with SEBI.

An amendment has also been brought out with respect to the manner and extent of creating deposit insurance. According to Rule 5 of the erstwhile Rules, every eligible company inviting deposits shall enter into a contract for providing deposit insurance. Proviso to the said Rule exempted companies from the specified requirement upto 31st March 2017. Currently, this date has been extended to 31st March 2018 or upto the availability of deposit insurance product, whichever is earlier.

The provisions were aimed at safeguarding interest of depositors in view of many Ponzi scams witnessed recently. However, no suitable insurance product for the said purpose are available in the market as of date, as insurance companies are viewing this as a risky proposition.

Presently, deposit insurance is only offered to banks through DICGC which is a wholly-owned subsidiary of RBI.

Notification No. S.O.1570(E) - Dated 15th May 2017

1st April 2017 has been appointed as the effective date for applicability of clause (a) to (d) of Section 2 of the Insolvency and Bankruptcy Code of India, 2016 which relates to voluntary liquidation or bankruptcy of Companies, LLP and such other body corporate as may be notified by Central Government. Provisions pertaining to partnership firms and individuals are not yet made applicable.

General Circular No. 04/2017 - Dated 16th May 2017

Section 16 of the Companies Act, 2013 deals with applications for rectification of name of company. Stakeholders sought clarification from MCA regarding applications which were earlier rejected on grounds of being time-barred as prescribed period of 12 months had been completed and current section does not specify any time limitation. This circular clarifies that the applications rejected by Regional Director under section 22(1)(ii)(b) of the Companies Act, 1956 cannot be revived or applied afresh.

General Circular No. 05/2017 - Dated 16th May 2017

General Circular No.03/2017 dated 27th April, 2017 regarding "Transfer of shares to IEPF Authority" is withdrawn with immediate effect and the subject matter is being reviewed by the Ministry and fresh instructions on the matter will be issued in due course of time.

General Circular No. 06/2017 - Dated 29th May 2017

Clarification has been issued with respect to due date for transfer of shares by the companies pursuant to 2nd proviso to Rule 6 of IEPF Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2017. Where the period of seven years as under Section 124(5) is completed during the period 7th September, 2016 to 31st May, 2017, the due date for transfer of such shares by companies is 31st May, 2017. Companies have been advised to complete all formalities laid down in the Rules without awaiting any instructions regarding further dates.

Central Board of Direct Taxes (CBDT)

Notification No. 36/2017 - Dated 2nd May 2017

A new Rule 21AD has been inserted in Income Tax Rules, which prescribes application in Form 10IB electronically either with digital signature or electronic verification mode for a newly setup domestic company engaged solely in the business of manufacture or production of article or thing to opt for payment of tax @ 25% for any previous year beginning on or after 1st April, 2017, subject to fulfilment of following conditions prescribed in Section 115BA.

- The company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;

- the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JAA(deduction in respect of employment of new workmen); and
- the option is furnished in the prescribed manner before the due date of furnishing of income as under section 139(1) of Income Tax Act, 1961.

It is further specified that, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Notification No. 37/2017 - Dated 11th May 2017

Under Section 139AA of Income Tax Act, it is mandatory for every person, who is eligible for obtaining Aadhaar number, to quote the Aadhaar number in application form for allotment of PAN and in the return of income. Central government has provided exemption from mandatory quoting of PAN to the following persons:

- Persons residing in the state of Assam, Jammu & Kashmir and Meghalaya
- Non-Resident as per Income Tax Act,
- Persons of the age 80 years or more at any time during the previous year
- Not the citizen of India.

This notification will come in force from 1st July 2017

Notification No. 5/2017 - Dated 29th May 2017

It has been brought to the notice of CBDT that in case of minors whose parents have deceased, TDS deductors / Banks are clubbing interest income accrued to the minor in the hands of grandparents and issuing TDS certificates to grandparents which is not in accordance with the law.

CBDT has clarified intention of the Income Tax law which states that the income of minors is to be clubbed with parents income only and not to any other relatives. In case where both the parents of minor have deceased, the income should be assessed in the hands of minor and TDS is to be deducted and deposited against the PAN of minor, unless a declaration has been filed under sub-rule (2) of Rule 37BA of the I.T.Rules, 1962, to that effect.

Circular No. 18/2017 - Dated 29th May 2017

Central Board of Direct Taxes has issued the revised list of funds, authorities, Boards or Bodies whose income is unconditionally exempted and who are also not required to file return of income. For these funds, authorities, Boards or Bodies, the TDS provisions do not apply.

Notification No. 6/2017 - Dated 30th May 2017

Representations have been received by the CBDT for clarification on whether a depositor should submit only one declaration in respect of the income each year before each deductor or submit each and every time the payment is due to be received from the deductor. CBDT has clarified that Form 15G/15H are required to be furnished for each financial year.

When the estimated total income/aggregate income changes and new investment are made, one needs to file form 15G/15H providing full particulars of the same. In case of old investments, the assessee needs to provide total number of earlier declarations filed in form 15G/15H and aggregate amount of income for which the forms have been filed.

Notification No. 7 of 2017 - Dated 30th May 2017

CBDT had issued Notification 1 of 2017 dated 17th January 2017 wherein it provided a detailed procedure for registration and submission of statement of financial transactions under Section 285BA of Income Tax Act, 1961 read with Rule 114E of Income Tax Rules, 1962.

The Principal Director General of Income Tax (Systems) has issued additional procedures for Acceptance of Statement of Financial Transactions, wherein filer has to bring the Form 61A duly signed along with computer media copy to TIN Facilitation Centre's. The TINFC's will accept physical copy and issue the temporary receipt. After the validation, the provisional receipt/Non-Acceptance Memo will be sent to the email-id mentioned on temporary receipt.

Also by order dated 31st May, 2017, CBDT has extended the due date for filing of SFT pertaining to transactions registered or recorded during the Financial Year 2016-17 from 31st May 2017 to 30th June 2017.

Central Board of Excise and Customs (CBEC) – Customs

Notification No. 20/2017- Dated 16th May 2017

Central Government has amended Notification No. 12/2012 dated 17th March, 2017 and has extended the time period for furnishing the Mega Power Project Certificate from 60 months to 120 months. It has also extended the period of validity of security in the form of Fixed Deposit Receipt or Bank Guarantee from 66 months to 126 months, in case of provisional mega power projects.

Security Exchange Board of India (SEBI)

Circular SEBI/HO/MRD/DSA/CIR/P /2017/45 - Dated 23rd May 2017

SEBI (International Financial Services Centres) Guidelines 2015 specifies that portfolio manager, alternate investment fund or mutual fund operating in IFSC shall invest in following securities subject to condition and guidelines issued by RBI and Government of India:

- Securities which are listed in IFSC;
- Securities issued by companies incorporated in IFSC;
- Securities issued by companies incorporated in India or companies belonging to foreign jurisdiction.

Circular CIR/IMD/DF/50/2017 - Dated 26th May, 2017

This circular specifies the guidance for listing of Non-Convertible Redeemable Preference Shares (NCRPS) / Non-Convertible Debentures (NCDs) issued vide a Scheme of Arrangement. Kindly visit "Our News" section of the website for more details.

Circular CIR/IMD/DF/51/2017 - Dated 30th May 2017

SEBI (Issue and Listing of Debt Securities) Regulations, 2008, govern public issue of debt securities and listing of debt securities issued through public issue or on private placement basis, on a recognized stock exchange. This circular specifies the disclosure requirement for issuance and listing of Green Debt Securities and the responsibility of issuer of green Debt Securities. Kindly visit "Our News" section of the website for more details.

Reserve Bank of India (RBI)

RBI/2016-17/299

DBR.BP.BC.No.67/21.04.048/2016-17 Dated 5th May, 2017

Reserve Bank of India earlier issued Circular No. DBOD.BP.BC.No.97/21.04.132/2013-14 dated February 26, 2014 which prescribes a framework for Revitalizing Distressed Assets in the Economy – Guidelines on Joint Lenders' Forum (JLF) and Corrective Action Plan (CAP). The said framework aims at early identification of stressed assets and timely implementation of a corrective action plan (CAP) to preserve the economic value of stressed assets. It specifies various timelines within which lenders have to decide and implement the CAP. Despite this framework, delays have been observed in finalizing and implementation of the CAP, leading to delays in resolution of stressed assets in the banking system.

Consequently, Reserve Bank of India has clarified that the CAP can also include resolution by way of Flexible Structuring of Project Loans, Change in Ownership under Strategic Debt Restructuring and Scheme for Sustainable Structuring of Stressed Assets (S4A).

In this context, it is reiterated that lenders must scrupulously adhere to the timelines prescribed in the Framework for finalizing and implementing the CAP. To facilitate timely decision making, it has been decided that, henceforth, the decisions agreed upon by a minimum of 60 percent of creditors by value and 50 percent of creditors by number in the JLF would be considered as the basis for deciding the CAP, and will be binding on all lenders, subject to the exit (by substitution) option available in the Framework. Lenders shall ensure that their representatives in the JLF are equipped with appropriate mandates, and that decisions taken at the JLF are implemented by the lenders within the timelines. Lenders shall abide by the conditions specified in the notification. Any non-adherence in abiding by these instructions and timelines shall be subject to monetary penalties on the concerned banks under the provisions of the Banking Regulation Act, 1949.

Press Release – FIBP Related

The Union Cabinet has approved the phasing out of Foreign Investment Promotion Board (FIPB) and proposed to allow administrative Ministries and Departments to process applications for FDI requiring government approval. Henceforth, the work relating to processing of applications for FDI and approval of the Government thereon under the extant FDI Policy and FEMA, shall now be handled by the concerned

Ministries/Departments in consultation with the Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce, which will also issue the Standard Operating Procedure (SOP) for processing of applications and decision of the Government under the extant FDI policy.

Goods and Service Tax (GST)

Gist of 14th GST Council meeting held in Srinagar, on 18th/19th May 2017

- Council has approved seven draft GST Rules & Formats relating to Valuation, Composition, ITC, Invoice Debit & Credit Note, Registration, Payment & Refund.
- Two draft GST rules on Transition Provisions and Returns have been sent for legal vetting.
- GST Rates have been approved for 1205 items out of 1211 items listed
- The GST rates are 0%, 5%, 12%, 18% and 28%.
- GST Compensation Cess are levied for demerit and luxury items. For instance, a cess of 204% has been proposed for pan masala containing 'Gutkha'.
- 12 services have been kept under Reverse Charge Mechanism.
- 83 services are placed under exemption list.
- 1% TCS has to be deducted by E-commerce players like Flipkart as against 2% cap provided in final GST law.

GST and Compensation Cess rate, as applicable on supply of similar goods, will be applicable in following cases:

- Transfer of the right to use goods for any purpose for cash/deferred payment/other valuable consideration
- Any transfer of right in goods or of undivided share in goods without the transfer of title thereof,
- Supply consisting transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed.

Next GST Council Meeting will be held on 3rd June 2017 at New Delhi.

This meeting has finalised the broad structure and mechanism of GST implementation and has given hope for rolling out of GST from 1st July 2017 as planned.

Readers are requested to visit "Our News" section for more details.

Labour Laws

Clarification on Maternity Benefit (Amendment) Act, 2017

Ministry has clarified that the benefits of the Act shall be extended to the women who are already under maternity leave at the time of enforcement of the Act. It is the responsibility of employers to extend the benefit of enhanced Maternity leave to those women workers who were already on leave on 1st April 2017 as the amended act was notified with effect from 1st April 2017.

EPFO real time monitoring mechanism

The Employee Provident Fund Organisation has facilitated a real time monitoring mechanism in regard to the remittance position of the establishment through introduction of Unified Portal System. Some salient features included SMS alerts and email alerts to employers and supply of information to field officers in protected format in the MIS portals.

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