



Brahmayya Bulletin

April 2017

Editorial

The government is now a step closer to achieve the stated objectives through the new Goods and Services Tax regime, the country's most comprehensive and biggest taxation-cum-economic reform since independence. The wait for the game changer tax reforms is most likely to be over this July as the President of India has on 12th April 2017 given his assent on four GST-supporting legislations earlier passed by Parliament.

"New Year, New Law, New India," tweeted Prime Minister Shri Narendra Modi as he congratulated the nation on the passage of the four Bills by Parliament.

The Income Tax assesseees would be evidencing a new tax regime under the General Anti Avoidance Rule, popularly known as GAAR. After several years of deliberations, the GAAR takes effect from 1st April 2017. Tax litigations would soon be on the rise.

The new financial year would evidence the effects of demonetisation and the Government's initiatives to curb black money. After having issued several warnings, the Income Tax Department has brought in more tax payers into its ambit. The industry is hopeful and progress is inevitable.

Demonitisation has however resulted in the reduction of the bank rate by 25 basis points. This was indeed expected with huge deposits piling up at the banks coffers.

India has evidenced a climb to the 8th spot in the Global Foreign Direct Investment (FDI) Confidence Index. India is continuously proving to be the most attractive destination for the foreign investors.

While RBI continues to make suitable amendments to ease business development in India for the investors, transparency is the key. Good governance coupled with transparency would indeed push larger investments.

Wishing all the readers a happy beginning to the financial year!

Happy reading!

Policy Directive Order Instruction Update Clarification
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Framework Update Policy Instruction
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Institute of Chartered Accountants of India
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Update

Ministry of Corporate Affairs (MCA)

S.O. 1182(E) - Dated 13th April 2017

Section 234 of the Companies Act, 2013 has been notified with effect from 13th April 2017. Accordingly, foreign company, may with the prior approval of the Reserve Bank of India merge into an Indian Company or vice versa.

A new rule 25A has been inserted in Companies (Compromises, Arrangements and Amalgamations) Rules 2016 which states that the merger of a Foreign Company with an Indian Company or an Indian Company with a foreign company is permitted after obtaining prior approval of RBI. In such cases, the valuation of business shall be conducted by member of recognized professional body in the jurisdiction of transferee company in accordance with internationally accepted principles on accounting and valuation. The concerned company shall file application to the tribunal as per Section 230 to 232 of the Companies Act and after obtaining approvals as specified in this rule.

G.S.R. 339(E) - Dated 7th April 2017

Companies (Registration of Charges) Rules 2014 has been amended with a new Form No. CHG -1 substituting the old Form.

Circular No. 03/2017 - Dated 27th April 2017

The IEPF authority has decide to open a special demat account with National Securities Depository Limited and all companies are required to transfer shares to demat whether held in demat form or physical form.

Format and operational procedures will be prescribed by NSDL by 30th April 2017 and 15th May 2017 respectively.

Central Board of Direct Taxes (CBDT)

GSR 325(E) - Dated 3rd April 2017

Existing rule 19AB dealing with form of report for claiming deduction under section 80JJAA has been substituted and the report of accountant shall be furnished in Form 10DA. Section 80JJAA provides that assessee covered under section 44AB shall be allowed to claim deduction of 30% on additional employee cost incurred in the course of such business for previous year, for three AY including AY relevant to previous year in which such employment is provided.

Notification No.28/2017 - Dated 5th April 2017

Section 269ST provides that amount of INR 2 Lakhs or more shall not be received by person in aggregate from a person in a day or in a single transaction or transactions relating to one event or occasion from a person other than through account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. This notification clarifies that, where a person receives an amount of INR 2 Lakhs or more from any banking company, post office saving banks or cooperative bank then the provision of section 269ST shall not apply. The notification shall come into force with effect from 1st April 2017.

Circular No.13/2017 - Dated 11th April 2017

Section 5(2)(a) of Income Tax Act provides that only such income of a non-resident shall be subjected to tax in India that is either received in India or is deemed to be received in India.

This circular has clarified that salary accrued to a non-resident seafarer for services rendered outside India for a foreign ship shall not be included in total income merely because it is credited in NRE account maintained with Indian Bank.

Circular No.14/2017 - Dated 21st April 2017

This circular extended the time limit for filing declaration under the Investment and Taxation regime for Pradhan Mantri Garib Kalyan Yojna. Original date for declaration under the scheme was 31st March 2017, which was extended to 10th April 2017 vide Circular No.12 dated 31st March, 2017, in cases where due tax, surcharge, penalty and deposit under the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 (Deposit Scheme) had been received till 31st March 2017. Vide this notification, the date has been further extended to 10th May 2017.

Notification No.4/2017 - Dated 3rd April 2017

A new link or window called 'e-proceeding' is introduced on the e-filing portal of income tax. The website has been linked to the internal online business application portal (ITBA) of the tax department

All the notices/ questionnaire/ letters/orders issued from ITBA modules by any Income Tax Authority will be visible to assessee after login under "E-Proceeding" Tab in the website of the Department. Thereupon, assessee will be able to submit his response along with attachments on the e-Filing website.

Circular No.16 - Dated 25th April 2017

This circular clarified that income from the Industrial Parks/SEZ established under various scheme framed and notified under section 80IA(4)(iii) is liable to be treated as income from business. The Board has accepted the judgement in case of CIT v Information Technology Park Ltd dated 30th April 2014, which held that company was engaged in the business of developing, operating and maintaining an Industrial Park and providing infrastructure facilities to different companies and receives Lease rent would be chargeable to tax under "Income from Business".

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

Notification No. 13/2016 - Dated 12th April, 2017

CBEC has amended the Service Tax (Settlement of Cases) Rules, 2012 and has notified Amendment Rules, 2017 wherein "Form SC (ST) 2" has been prescribed under rule 3 for Application for Settlement of Service Tax Cases before the Customs and Central Excise Settlement Commission.

Notification No. 14/2016 - Dated 13th April, 2017

In the Point of Taxation Rules, 2011, after rule 8A, a new rule 8B is inserted which deals with determination of point of taxation in case of services provided by a person located in non-taxable territory to a person in non-taxable territory.

This Rule 8B states that the point of taxation in respect of services provided by a person located in non-taxable territory to a person in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, shall be the date of bill of lading of such goods in the vessel at the port of export.

Notification No. 15/2017- Dated 13th April, 2017

Under notification No. 30/2012-Service Tax, dated the 20th June, 2012, of Reverse charge following Explanation shall be substituted:

Explanation III - The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

Explanation IV - For the purposes of this notification, "non-assesse online recipient" has the same meaning as assigned to it in clause (ccba) of sub-rule 1 of rule 2 of Service Tax Rules, 1994.

Explanation V.- For the purposes of this notification, in respect of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, person liable for paying service tax other than the service provider shall be the importer as defined under clause (26) of section 2 of the Customs Act, 1962 (52 of 1962) of such goods.

Notification No. 16/2017- Dated 13th April, 2017

In the Service Tax Rules, 1994, under rule 2 related to definitions, in sub-rule (1), clause (d), the following shall be substituted:

(EEC) in relation to services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, the importer as defined under clause (26) of section 2 of the Customs Act, 1962 (52 of 1962) of such goods.

Under rule 6 regarding payment of service tax, the following sub-rule shall be inserted:

(7CA) The person liable for paying service tax for the taxable services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, shall have the option to pay an amount calculated at the rate of 1.4% of the sum of cost, insurance and freight (CIF) value of such imported goods.

Central Board of Excise and Customs (CBEC) – Excise

Notification No. 10/2017 - Dated 13th April 2017

In the CENVAT Credit Rules, 2004, under Rule 2, in the definition of “input service”, following new service is included:

“Services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India where service tax is paid by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the said taxable services and the said imported goods are his inputs or capital goods”.

Central Board of Excise and Customs (CBEC) – Customs

Notification No.36/2017 - Dated 11th April 2017

CBEC has amended the Levy of Fees (Customs Documents) Regulations, 1970 and the revised regulations prescribes revised fee structures for various purposes including amendment, cancellations of various documents and supply of certified copies as prescribed in the Customs Regulations.

Circular No. 13/2017 - Dated 10th April 2017

CBEC has clarified that indigenous goods supplied to the EOUs/EPZ/SEZ/EHTP/STP after availing the benefits of deemed exports are to be treated as imported goods at the time of transfer/sale back to DTA and applicable duty is liable to be paid.

Circular No. 14/2017 - Dated 11th April 2017

In order to bring the simplification in the process and time reduction at Customs Port and Airports, CBEC has prescribed the procedures to the department and advised minor amendments in Import Manifests to be approved on the same day and major amendments to be approved within 24 hours of submission of complete forms.

Reserve Bank of India (RBI)

RBI/2016-17/270 DBR.No.Ret. BC. 58/12.01.001/2016-17 - Dated 6th April 2017

Under the Bi-Monthly Monetary Policy Statement, Reserve Bank of India has lower down the bank rate by 25 basis point from 6.75 % to 6.50% with effect from 6th April 2017.

RBI/2016-2017/268 FMOD. MAOG No.118/01.1.001/2016-17 - Dated 6th April 2017

Under the Bi-Monthly Monetary Policy Statement, the Repo Rate under Liquidity Adjustment Facility is stated to be 6.25% and Reverse Repo rate as 6 %.

RBI/2016-17/283/DBR.BP.BC. No.63/21.04.018/2016-17 - Dated 18th April 2017

On reviewing the banks compliance with the extant Prudential norms on Income Recognition, Asset Classification and Provisioning (IRACP) as a part of supervisory processes, Reserve Bank of India has come across instances of material divergences. To provide greater transparency and promote better discipline, banks are advised to make suitable disclosure in the Notes to Accounts in the financials regarding the Divergence in Assets Classification and Provisioning for NPA, where such divergences exceed a specified threshold.

It is applicable to banks, where:

- The additional provisioning requirements assessed by RBI exceed 15% of the published net profits after tax for the reference period, or
- The additional Gross NPA's identified by RBI exceed 15% of the published incremental Gross NPA's for the reference period, or both.

The disclosures shall be made in the Notes to Accounts in the ensuring Annual Financials, published immediately following communication of such divergence by RBI to the banks.

RBI/2016-17/282 DBR.No.BP.BC,64 /21.04.048/2016-17 - Dated 18th April, 2017

Reserve bank of India has already prescribed the rate for provision to be made on Advances by banks in Master Circular dated 5th July 2015. In current circular, Reserve Bank of India has advised that the rate prescribed under the circular dated 5th July 2015 are minimum regulatory rates and encouraged banks to make provisions at higher rate for advances given to stressed sectors of economy like telecom sector. Reserve Bank of India has advised the banks:

- To apply the Board Approved Policy for making provisions for standard assets at higher rates, based on evaluation of risk and stress in various sectors.
- The policy shall require atleast quarterly review of the sectors to which bank is exposed to evaluate the stress and emerging risks, based on various analytical ratios and sector specific parameters.

Notification No. S.O.4061 E - Dated 19th April 2017

Reserve Bank of India has made amendment in the Pradhan Mantri Garib Kalyan Deposit Scheme for effective date of deposit. In earlier notification dated 16th December 2016, the effective date of deposit was considered as date of tender of cash or date of realization of draft/ cheque or transfer through electronic transfer.

However, by the current notification, the date of deposit will be consider as date of receipt of deposit by Reserve Bank of India from authorised banks and in no case, the date of deposit shall be extended beyond 30th April 2017.

RBI/2016-17/295 BNBR.PD (ARC) CC No. 03/26.03.001/2016-17 - Dated 28th April 2017

Consequent to the amendments in Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Asset Reconstruction Company was not allowed to commence business of securitisation or asset construction without having net owned fund of INR 2 Crores or higher as notified by Reserve Bank of India.

With the current market situation in view and the greater role of Asset Reconstruction Company for resolving the stressed assets, the Net Owned Fund requirement has been fixed to minimum of INR 100 Crores.

Net Owned Fund can be calculated by reducing following from Owned Funds (to the extent it exceeds 10% of owned fund):

- the investments in subsidiaries, companies of same group and other asset reconstruction company,
- book value of debentures, bonds, outstanding loans and advances made and deposit with subsidiaries of Asset Reconstruction Company and Companies of same group.

Institute of Chartered Accountants of India (ICAI)

The ICAI has issued Implementation Guide on Auditor's Report under Rule 11(d) of Companies (Audit and Auditors) Amendment Rules, 2017 and Amendment to Schedule III to Companies Act, 2013.

Accordingly, ICAI has provided guidance on the new reporting requirements regarding Specified Bank Notes (SBN) cast on the statutory auditors of the companies. Suitable audit procedures and clarifications in FAQ mode are provided in the Implementation Guide.

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