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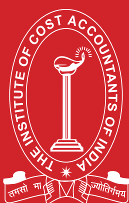

The Institute of Cost Accountants of India

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The Institute of Cost Accountants of India

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INDIAN ECONOMY

News

➲ **Manufacturing growth loses momentum in February with PMI at 51.1, same as January**

Manufacturing business conditions in India continued to improve, with new orders, exports, output and purchasing activity all rising in February. However, a faster expansion in new business inflows failed to lift growth of output. At 51.1 in February, unchanged from January's reading, the seasonally adjusted Nikkei India Manufacturing Purchasing Managers' Index (PMI), pointed to a second consecutive monthly improvement in business conditions across the sector.

Read more at: http://economictimes.indiatimes.com/news/economy/indicators/manufacturing-growth-loses-momentum-in-february-with-pmi-at-51-1-same-as-january/articleshow/51204816.cms

➲ **India's annual retail inflation eases in February**

India's annual retail inflation fell to 5.18 percent in February from 5.69 percent for the month before, thanks to a significant drop in food prices, official data showed. As per figures released by the Central Statistics Office (CSO), the annual food inflation, based on the consumer price index (CPI), stood at 5.30 percent for February, as against 6.85 percent in the month before. In the like month of the previous fiscal, the overall annual inflation was 5.37 percent, while the 12-month food inflation was 6.88 percent.

Read more at: http://www.business-standard.com/article/news-ians/india-s-annual-retail-inflation-eases-in-february-116031400828_1.html

➲ **Industrial output contracts 1.5 per cent in January: Government**

Showing sluggishness in the economy, industrial production contracted by 1.5 per cent in January -- its third straight month of drop -- due to poor performance of manufacturing sector and lower off take of capital goods. Factory output measured in terms of Index of Industrial Production (IIP) had declined by 3.4 per cent in November and 1.2 per cent in December, according to the data released by Central Statistics Office (CSO). The index had registered a growth of 2.8 per cent in January last year, it said. During April-January, industrial output growth remained flat at 2.7 compared to the year ago period.

The decline in January has been primarily on account of a massive drop in output of capital goods, which showed a contraction of 20.4 per cent in January compared to a growth of 12.4 per cent in the same month a year ago.

Read more at: http://articles.economictimes.indiatimes.com/2016-03-11/news/71416884_1_industrial-output-growth-consumer-goods-output-manufacturing-sector

➲ **Forex reserves jump $2.54 billion to $353.40 billion**

Country's forex reserves rose for a second consecutive week, going up by a robust $2.544 billion to $353.408 billion as of March 18 on a healthy rise in the core currency assets, the Reserve Bank of India said. After falling for two straight weeks, the total reserves had risen massively by $4.075 billion to $350.86 billion at the end of the previous reporting week.

The foreign currency assets (FCAs), a major component of overall reserves, increased by $2.524 billion to $329.999 billion in the reporting period, an RBI release said. FCAs, expressed in dollar terms, include the effect of appreciation and depreciation of non-US currencies, such as the euro, pound and the yen, held in the reserves. Gold reserves were unchanged at $19.324 billion.

Read more at:http://articles.economictimes.indiatimes.com/2016-03-18/news/71630917_1_reserve-position-forex-reserves-fcas

➲ **FDI in services sector up 85.5 per cent in April-December**

With the government taking steps to improve ease of doing business and attract foreign investment, FDI inflows into the services sector grew by 85.5 per cent to $4.25 billion in April-December period. The sector, which includes banking, insurance, outsourcing, R&D, courier and technology testing, had received foreign direct investment (FDI) worth $2.29 billion during April-December 2014, according to the Department of Industrial Policy and Promotion (DIPP).

The services sector contributes over 60 per cent to Indian GDP. FDI in the sector accounts for 17 per cent of the country's total foreign investment inflows. The other sectors where inflows have recorded growth are: computer software and hardware ($5.3 billion), trading ($2.71 billion), automobile ($1.78 billion) and chemicals ($1.19 billion).

Read more at: http://articles.economictimes.indiatimes.com/2016-03-06/news/71246464_1_services-sector-fdi-inflows-infrastructure-sector

➲ **Factory Output Up 2% In February; Retail Inflation Eases To 4.83% In March**

India's retail inflation eased in March to a six-month low, helped by smaller rises in food prices, giving relief to policymakers as

they strive for faster economic growth without unleashing price pressures. Raghuram Rajan, Governor of the Reserve Bank of India (RBI), cut policy rates by 25 basis points last week to a more than five-year low, saying he could look for more room to ease if inflation trends stay benign.

Annual consumer price inflation, which the RBI tracks to set its interest rate policy, eased to 4.83 per cent in March from a year ago, data released by the Ministry of Statistics (12 April) showed.

Read more at: http://businessworld.in/article/Factory-Output-Up-2-In-February-Retail-Inflation-Eases-To-4-83-In-March/12-04-2016-96930/

BANKING

Notifications / Circulars

➲ Master Circular – Basel III Capital Regulations - Revision

In reference to Master Circular DBR.No.BP.BC.1/21.06.201/2015-16 dated July 1, 2015 on 'Basel III Capital Regulations'. The treatment of certain balance sheet items, as per the extant regulations on banks' capital, differs from what is prescribed by the Basel Committee on Banking Supervision (BCBS). It has also been represented to the Reserve Bank that the current framework places on the banks in India the need to raise more capital than would be required had the Basel rules been applied as they are. The Reserve Bank has reviewed the position in this regard and it has been decided to align, to some extent, the current regulations on treatment of these balance sheet items, for the purpose of regulatory capital, with the BCBS guidelines. Accordingly it has been decided as detailed herein below:

Treatment of revaluation reserves:

Revaluation reserves arising out of change in the carrying amount of a bank's property consequent upon its revaluation may, at the discretion of banks, be reckoned as CET1 capital at a discount of 55%, instead of as Tier 2 capital under extant regulations, subject to meeting the following conditions:
• bank is able to sell the property readily at its own will and there is no legal impediment in selling the property;
• the revaluation reserves are shown under Schedule 2: Reserves & Surplus in the Balance Sheet of the bank;
• revaluations are realistic, in accordance with Indian Accounting Standards.
• valuations are obtained, from two independent valuers, at least once in every 3 years; where the value of the property has been substantially impaired by any event, these are to be immediately revalued and appropriately factored into capital adequacy computations;
• the external auditors of the bank have not expressed a qualified opinion on the revaluation of the property;
• the instructions on valuation of properties and other specific requirements as mentioned in the circular DBOD.BP.BC. No.50/21.04.018/2006-07 January 4, 2007 on 'Valuation of Properties - Empanelment of Valuers' are strictly adhered to.

Treatment of foreign currency translation reserve (FCTR)

Banks may, at their discretion, reckon foreign currency translation reserve arising due to translation of financial statements of their foreign operations in terms of Accounting Standard (AS) 11 as CET1 capital at a discount of 25% subject to meeting the following conditions:
• the FCTR are shown under Schedule 2: Reserves & Surplus in the Balance Sheet of the bank;
• the external auditors of the bank have not expressed a qualified opinion on the FCTR.

Treatment of deferred tax assets (DTAs)

(i) Deferred tax assets (DTAs) associated with accumulated losses and other such assets should be deducted in full from CET1 capital.
(ii) DTAs which relate to timing differences (other than those related to accumulated losses) may, instead of full deduction from CET1 capital, be recognized in the CET1 capital up to 10% of a bank's CET1 capital, at the discretion of banks
(iii) Further, the limited recognition of DTAs as at (ii) above along with limited recognition of significant investments in the common shares of unconsolidated financial (i.e. banking, financial and insurance) entities in terms of paragraph 4.4.9.2(C) (iii) of the Master Circular taken together must not exceed 15% of the CET1 capital, calculated after all regulatory adjustments set out from paragraphs 4.4.1 to 4.4.9 of the Master Circular. However, banks shall ensure that the CET1 capital arrived at after application of 15% limit should in no case result in recognizing any item more than the 10% limit applicable individually.
(iv) The amount of DTAs which are to be deducted from CET1 capital may be netted with associated deferred tax liabilities (DTLs) provided that:
• both the DTAs and DTLs relate to taxes levied by the same taxation authority and offsetting is permitted by the relevant taxation authority;
• the DTLs permitted to be netted against DTAs must exclude amounts that have been netted against the deduction of goodwill, intangibles and defined benefit pension assets; and
• the DTLs must be allocated on a pro rata basis between DTAs subject to deduction from CET1 capital as at (i) and (ii) above.
(v) The amount of DTAs which is not deducted from CET1 capital (in terms of para (ii) above) will be risk weighted at 250% as in the case of significant investments in common shares not deducted from bank's CET1 capital as indicated in paragraph 4.4.9 (C)(iii) of the Master Circular.

Source: Notification No. RBI/2015-16/331 [DBR.No.BP. BC.83/21.06.201/2015-16] dated: March 1, 2016

Read more at: https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=10294

Master Direction - Reserve Bank of India (Interest Rate on Advances) Directions, 2016

In exercise of the powers conferred by conferred by Sections 21 and 35 A of the Banking Regulation Act, 1949, the Reserve Bank of India issues the Directions hereinafter specified.

General Guidelines: Interest Rate framework:

Scheduled commercial banks shall charge interest on advances on the terms and conditions specified in these directions.
(i) There shall be a comprehensive policy on interest rates on advances duly approved by the Board of Directors or any committee of the Board to which powers have been delegated.
(ii) All categories of advances, except those mentioned in section 13, shall be priced with reference to the benchmark indicated in chapter III.

Read full notification at: https://rbi.org.in/scripts/NotificationUser.aspx?Id=10295&Mode=0

Source: Notification No. RBI/DBR/2015-16/20 [Master Direction DBR.Dir.No.85/13.03.00/2015-16] dated: March 03, 2016

Grant of EDF Waiver for Export of Goods Free of Cost

Attention of Authorized Dealers is invited to A.P. (DIR Series) Circular No. 94 dated April 26, 2003 in terms of which GR waiver to exporters for export of goods free of cost had been enabled. The facility had been extended to the Status Holders vide para 2.52.1 of Handbook of Procedures- Vol-I of Foreign Trade Policy 2004-2009, in terms of which Status Holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of Rs 10 lakhs or 2% of average annual export realization during preceding three licensing years, whichever is higher.
Government of India vide amendment Notification No. 9/2015-2020 dated June 4, 2015, has notified that the Status Holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of Rs 10 lakhs or 2% of average annual export realization during preceding three licensing years whichever is lower. AD Category – I banks may, therefore, consider requests from Status Holder exporters for grant of Export Declaration Form (EDF) waiver, for export of goods free of cost based on the revised norm.

Source: Notification No. RBI/2015-16/332 [A.P. (DIR Series) Circular No.53] dated: March 03, 2016

Read more at: https://rbi.org.in/scripts/NotificationUser.aspx?Id=10297&Mode=0

Sovereign Gold Bonds- 2016 Series-II

Government of India has vide its Notification F. No. 4(19)-W&M/2014 dated March 04, 2016 announced that the Sovereign Gold Bonds, 2016 (“the Bonds”) will be open for subscription from March 8, 2016 to March 14, 2016. The Government of India may, with prior notice, close the Scheme before the specified period. The terms and conditions of the issuance of the Bonds shall be as follows:

1. Eligibility for Investment: The Bonds under this Scheme may be held by a person resident in India, being an individual, in his capacity as such individual, or on behalf of minor child, or jointly with any other individual. The bond may also be held by a Trust, Charitable Institution and University. “Person resident in India” is defined under section 2(v) read with section 2(u) of the Foreign Exchange Management Act, 1999.
2. Form of Security: The Bonds shall be issued in the form of Government of India Stock in accordance with section 3 of the Government Securities Act, 2006. The investors will be issued a Holding Certificate (Form C). The Bonds shall be eligible for conversion into de-mat form.
3. Date of Issue: Date of issuance shall be March 29, 2016.
4. Denomination: The Bonds shall be denominated in units of one gram of gold and multiples thereof. Minimum investment in the Bonds shall be two grams with a maximum limit of subscription of five hundred grams per person per fiscal year (April – March).
5. Issue Price: Price of the Bonds shall be fixed in Indian Rupees on the basis of the previous week’s (Monday – Friday) simple average closing price for gold of 999 purity, published by the India Bullion and Jewellers Association Ltd. (IBJA).
6. Interest: The Bonds shall bear interest at the rate of 2.75 percent (fixed rate) per annum on the amount of initial investment. Interest shall be paid in half-yearly rests and the last interest shall be payable on maturity along with the principal.
7. Receiving Offices: Scheduled commercial banks (excluding RRBs), designated Post Offices (as may be notified) and Stock Holding Corporation of India Ltd (SHCIL) are authorized to receive applications for the Bonds either directly or through agents.
8. Payment Options: Payment shall be accepted in Indian Rupees through Cash up to a maximum of Rs.20, 000/- or Demand Drafts or Cheque or Electronic banking. Where payment is made through cheque or demand draft, the same shall be drawn in favour of receiving office.
9. Redemption:
i) The Bonds shall be repayable on the expiration of eight years from March 29, 2016, the date of issue of Gold bonds. Pre-mature

redemption of the Bond is permitted from fifth year of the date of issue on the interest payment dates.
ii) The redemption price shall be fixed in Indian Rupees on the basis of the previous week's (Monday – Friday) simple average closing price for gold of 999 purity, published by IBJA.
10. Repayment: The receiving office shall inform the investor of the date of maturity of the Bond one month before its maturity.
11. Eligibility for Statutory Liquidity Ratio (SLR): The investment in the Bonds shall be eligible for SLR.
12. Loan against Bonds: The Bonds may be used as collateral for loans. The Loan to Value ratio will be as applicable to ordinary gold loan mandated by the RBI from time to time. The lien on the Bonds shall be marked in the depository by the authorized banks.
13. Tax Treatment: Interest on the Bonds shall be taxable as per the provisions of the Income-tax Act, 1961. Capital gains tax treatment will be the same as that for physical gold.
14. Applications: Subscription for the Bonds may be made in the prescribed application form (Form 'A') or in any other form as near as thereto stating clearly the grams of gold and the full name and address of the applicant. The receiving office shall issue an acknowledgment receipt in Form 'B' to the applicant.
15. Nomination: Nomination and its cancellation shall be made in Form 'D' and Form 'E', respectively, in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.
16. Transferability: The Bonds shall be transferable by execution of an Instrument of transfer as in Form 'F', in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.
17. Tradability of bonds: The Bonds shall be eligible for trading from such date as may be notified by the Reserve Bank of India.
18. Commission for distribution: Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the receiving offices on the applications received and receiving offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

Source: Notification No. RBI/2015-16/333 [IDMD.CDD. No.2020/14.04.050/2015-16] dated: March 04, 2016

Read more at: https://rbi.org.in/scripts/NotificationUser.aspx?Id=10298&Mode=0

➲ Review of risk weights assigned to sovereign debt

In terms of the extant directions, deposit accepting NBFCs, systemically important non-deposit taking NBFCs, all NBFC-MFIs and all NBFC-IFCs shall maintain a minimum capital ratio consisting of Tier I and Tier II capital which shall not be less than 15 per cent of its aggregate risk weighted assets on-balance sheet and of risk adjusted value of off-balance sheet items.

Based on the representations received from the industry, the risk weights assigned to exposures to domestic sovereigns have been reviewed. It has been decided as under:

A) Exposures to Central Government:
i. fund based and non-fund based claims on the Central Government will attract a zero risk weight.
ii. Central Government guaranteed claims will attract a zero risk weight.

B) Exposures to State Government:
i. Direct loan/ credit/ overdraft exposure and investment in State Government securities will attract zero risk weight.
ii. State Government guaranteed claims, which have not remained in default, will attract 20 per cent risk weight. However, if the loans guaranteed by the State Government have remained in default for a period of more than 90 days, a risk weight of 100% should be assigned.

Source: Notification No. RBI/2015-16/336 [DNBR (PD) CC.No.076/03.10.001/2015-16] dated: March 10, 2016

Read more at: https://rbi.org.in/scripts/NotificationUser.aspx?Id=10301&Mode=0

➲ NEFT – Customer Service and Charges – Adherence to Procedural Guidelines and Circulars

RBI has been decided to discontinue the submission of this report by member banks, from the quarter ending March 31, 2016. However, member banks may note that as and when required, the Reserve Bank may call for adhoc reports regarding the data for NEFT transactions by walk-in customers (those not having an account with the bank). Hence, banks may continue to maintain such data at their end vide *Notification No. RBI/2015-16/337 [DPSS.CO.EPPD No.2157/04.03.01/2015-16] dated: March 17, 2016.*

Read more at: https://rbi.org.in/scripts/FS_Notification.aspx?Id=10302&fn=9&Mode=0

➲ Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (MSMEs)

In order to provide a simpler and faster mechanism to address the stress in the accounts of MSMEs and to facilitate the promotion and development of MSMEs, the Ministry of Micro, Small and Medium Enterprises, Government of India, vide their Gazette Notification dated May 29, 2015 had notified a 'Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises'. However, certain changes in the captioned framework

have been carried out in consultation with the Government of India, Ministry of MSME in order to make it compatible with the existing regulatory guidelines on 'Income Recognition, Asset Classification and provisioning pertaining to Advances' issued to banks by RBI.

While the prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances will continue to be as per the instructions consolidated in the Master Circular on IRAC Norms dated July 1, 2015 and as updated from time to time, the revival and rehabilitation of MSMEs having loan limits up to Rs.25 crore will be in terms of these operating instructions. Restructuring of loan accounts with exposure of above Rs.25 crore will continue to be governed by the extant guidelines on Corporate Debt Restructuring (CDR) / Joint Lenders' Forum (JLF) mechanism.

The revised Framework supersedes our earlier Guidelines on Rehabilitation of Sick Micro and Small Enterprises issued vide our circular RPCD. CO. MSME & NFS.BC.40/06.02.31/2012-2013 dated November 1, 2012, except those relating to Reliefs and Concessions for Rehabilitation of Potentially Viable Units and One Time Settlement, mentioned in the said circular.

Banks should continue to report credit information and SMA status of all accounts above the cut-off exposure of Rs.5 crore and above to the Central Repository for Information on Large Credit (CRILC), as per extant instructions.

Source: Notification No. RBI/2015-16/338 [FIDD.MSME & NFS. BC.No.21/06.02.31/2015-16] dated: March 17, 2016

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10304&Mode=0

CUSTOMS

Notifications / Circulars

- Exemption of CVD on imported media with recorded Information Technology Software on so much value as is equivalent to the value of the Information Technology Software recorded on the said media which is leviable to Service tax under Finance Act, 1994 vide Notification No. 11/2016-Cus,dt. 01-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs11-2016.pdf

- Amendment of Notification No. 171/93-Customs, dated the 16.09.1993 so as to increase the value limit for bonafide gifts imported by post or as air freight from Rs. Ten thousand to Rs. Twenty thousand vide Notification No. 13/2016-Cus,dt. 01-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs13-2016.pdf

- Amendment of Notification No. 27/2011-Customs, dated the 01.03.2011 so as to exempt duty of customs leviable under the Second Schedule, to the Customs Tariff Act, 1975 (51 of 1975) [Export Duty] on items specified therein vide *Notification No. 15/2016-Cus,dt. 01-03-2016.*

Read full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs15-2016.pdf

- Amendment of Notification No. 21/2012-Customs, dated the 17.03.2012 so as to specify the rate of additional duty of customs leviable under sub-section 3 (5) of Customs Tariff Act, 1975 for items specified therein vide Notification No. 16/2016-Cus, dt. 01-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs16-2016.pdf

- CBEC amended Notification No. 230/86-Customs, dated the 03.04.1986 so as to make suitable amendments to the Project Import Regulations, 1986 vide Notification No. 20/2016-Cus,dt. 01-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs20-2016.pdf

- Amendment of Notification No. 42/96-Customs, dated the 23.07.1996 so as to make suitable amendments to the list of specified projects under heading 9801 of the first schedule to the Customs Tariff vide Notification No. 21/2016-Cus, dt. 01-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs21-2016.pdf

- CBEC seeks to amend notification No. 12/2012-Customs, dated the 17th March, 2012 so as to:

(i) continue BCD @ 25% on import of wheat beyond 31.03.2016 up to 30.06. 2016;
(ii) retain BCD @ 40% on import of Ghee Butter and Butter oil, beyond 31.03.2016 for a period up to 30.09.2016.

Source: Notification No. 24/2016-Cus, dt. 28-03-2016

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs24-2016

➲ Exemption from customs duty on cut/polished diamonds imported for testing/certification vide Notification No. 25/2016-Cus, dt. 30-03-2016.

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs25-2016

➲ CBEC amended Notification No. 32/2016-Cus (N.T.) dated 01.03.2016 [Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016] so as to notify 16.03.2016 as the date from which the said rules will be effective. Further the requirement of submission of security for availing the benefit under the said notification is being done away with.

Source: Notification No. 39/2016-Cus (NT),dt. 15-03-2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt39-2016.pdf

➲ **Baggage (Amendment) Rules, 2016**

In exercise of the powers conferred by section 79 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules further to amend the Baggage Rules, 2016 called Baggage (Amendment) Rules, 2016.

Passenger arriving from countries other than Nepal, Bhutan or Myanmar - An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, -

(a) used personal effects and travel souvenirs; and
(b) articles other than those mentioned in Annexure-I, up to the value of fifty thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided that a tourist of Indian origin, not being an infant, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,

(a) used personal effects and travel souvenirs; and
(b) articles other than those mentioned in Annexure- I, up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided further that where the passenger is an infant, only used personal effects shall be allowed duty free.
Explanation - The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.

Passenger arriving from Nepal, Bhutan or Myanmar - An Indian resident or a foreigner residing in India or a tourist, not being an infant arriving from Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,

(a) used personal effects and travel souvenirs; and
(b) articles other than those mentioned in Annexure -I up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided that where the passenger is an infant, only used personal effects shall be allowed duty free:

Provided further that where the passenger is arriving by land, only used personal effects shall be allowed duty free.

Explanation - The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger."

Source: Notification No. 43/2016-Customs (N.T.) dated: 31st March, 2016

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt43-2016

➲ Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver – Notification No. 44/2016-Cus (NT),dt. 31-03-2016.

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt44-2016

➲ Levy of safeguard duty on imports of Hot-rolled flat products of non-alloy and other alloy Steel in coils of a width of 600 mm or more for a period of two years and six months vide Notification No. 01/2016 Cus.(SG), dt. 29-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-sg2016/cssg01-2016.pdf

➲ **Prevention of use of non-genuine transferable duty credit scrips or DFIA (duty free import authorizations)**

Instances of unscrupulous persons being able to put to use

non-genuine transferable duty credit scrips or duty free import authorizations (purported to relate to chapters 3/5 or 4, respectively, of the respective Foreign Trade Policy) have been noticed in the field formations. Accordingly, the Board has decided to sensitize field formations on the issue. This is based on the extant instructions contained broadly in Board's Circulars 25/2003-Cus, 5/2010-Cus, 17/2012-Cus and 14/2015-Cus related to duty credit scrips, the Circulars 16/2006-Cus (read with 33/2000-Cus & 59/2000-Cus) related to DFIA, while taking into account the status of, and developments in, the mechanism of issuing scrips, the respective notifications issued governing usage of such scrips and authorizations, common prudence and balance between trade facilitation and enforcement.

Pre-registration stage

The issuing authority specifies a port/Custom House where the freely transferable varieties of reward duty credit scrips (other than related to SEZ) or duty remission duty credit scrips under post export EPCG scheme or DFIA (duty free import authorizations) are to be registered. The presentation of the scrip/DFIA, along with their annexure/condition sheet, allows registration which, inter alia, involves ruling out existence of any alerts that could cause delay in use of such financial/fiscal instruments.

Where export of goods under specific shipping bills/bills of export (not filed electronically in Customs EDI) shown in annexure/ condition sheet of the reward duty credit scrip is involved, the backing shipping bills need to be verified for genuineness. However, if the shipping bills were filed electronically in Customs EDI but scrip was not received simultaneously online through electronic transmission from DGFT, such verification of genuineness of shipping bills shall be restricted to not more than 5% randomly selected scrips for which EDI shipping bill details (irrespective of port of export) shall be viewed in-house using the role 'enq_ cntry' in ICES v. 1.5, without seeking documents from exporter. The Custom Houses need not verify genuineness of shipping bills when the reward scrip has been simultaneously received online through electronic transmission from DGFT.

It may be seen from the foregoing that in certain situations pertaining to reward scrips the Custom Houses are not required to verify genuineness of the scrip and/or its backing shipping bills (if any). Such situations require only check of absence of alert before registration. Registration, in such cases, should be ensured within 3 hours of presentation of reward scrip. In other cases of registration of reward scrips, a norm of registration within one day, excluding time taken if any at end of the Issuing Authority, should be adopted by Custom Houses.

At present certain reward duty scrips are registered at office of Development Commissioner of an SEZ as that may be the port of export. These offices issue physical release advices to CBEC's field formations for usage of duty credit in relation to these scrips. To illustrate, such a release advice may be received in relation to VKGUY/FPS scrip issued in relation to exports to SEZ units under FTP 2009-14. In the case of FTP 2015-20, an example would be MEIS scrip issued for direct overseas exports made by SEZ units for which release advice may be received by the field formation. While the Systems Directorate shall examine the feasibility of integrating such scrips/release advice in Customs EDI, meanwhile, prior verification of genuineness (from issuing authority) of such physical release advice should continue to be done.

In the case of duty remission duty credit scrip under post export EPCG duty credit scheme, the checks prescribed in Circular No.10/2013-Customs read with the relevant notification are to be conducted before registration. For transferable DFIA, prior to registration, it is to be verified that the details of exports given along with the DFIA matches the record of exports and is genuine. For both, the discrepancy, if any, found needs to be first referred to Regional Authority of DGFT.

In registering duty credit scrip or DFIA which is not simultaneously received online through electronic transmission from DGFT, care should continue to be exercised that correct particulars are entered in the Customs EDI system so that there is no room for mismatch of details.

Clearance stage

The respective notifications issued under Customs Act 1962, inter alia, prescribe that the scrip/authorization shall be presented before the proper officer of customs at the time of clearance for debit. This is, inter alia, for preventing non-genuine usage, for example, arising from difference between scrip/DFIA particulars vis a vis particulars shown on bill of entry, or from scrip of one scheme getting used for clearance under another scheme, etc. The absence of dematerialized system for recording issuance and transfer of scrips/DFIA issued by DGFT also necessitates presentation of the scrip for ensuring that use is by a genuine transferee holder-importer.

Source: Circular No. 12/2016-Customs, dated: 28th March, 2016

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ12-2016cs

➲ **Implementing Integrated Declaration under the Indian Customs Single Window**

The Central Board of Excise and Customs (CBEC) has taken-up the task of implementing 'Indian Customs Single Window Project' to facilitate trade. This project envisages that the importers and exporters would electronically lodge their Customs clearance documents at a single point only with the Customs. The required

permission, if any, from Partner Government Agencies (PGAs) such as Animal Quarantine, Plant Quarantine, Drug Controller, Food Safety and Standards Authority of India, Textile Committee etc. would be obtained online without the importer/exporter having to separately approach these agencies. This would be possible through a common, seamlessly integrated IT systems utilized by all regulatory agencies, logistics service providers and the importers/exporters. The Single Window would thus provide the importers/exporters a single point interface for clearance of import and export goods thereby reducing dwell time and cost of doing business.

Online Clearance from Participating Government Agencies (PGAs)

In this backdrop the Board has issued the circulars referred to above, to introduce a system of online clearance between Customs and the Department of Plant Protection, Quarantine and Storage (DPPQ&S), Food Safety Standards Authority of India (FSSAI), Drug Controller (CDSCO), Animal Quarantine (AQCS), Wild Life Crime Control Bureau (WCCB) and Textile Committee. With the introduction of this facility, clearance from these regulatory agencies is flowing online, and the hard-copy of 'No Objection Certificates' (NOCs) is no longer required for clearance of goods. This online clearance under Single Window Project has been rolled out at main ports and airports in Delhi, Mumbai, Kolkata and Chennai so far. It will be gradually extended across the country.

Integrated Declaration under Customs Single Window Project

CBEC has since developed the 'Integrated Declaration', under which all information required for import clearance by the concerned government agencies has been incorporated into the electronic format of the Bill of Entry. The Customs Broker or Importer shall submit the "Integrated Declaration" electronically to a single entry point, i.e. the Customs Gateway (ICEGATE). Separate application forms required by different PGAs like Drug Controller, AQCS, WCCB, PQIS and FSSAI would be dispensed with.

Training/ Familiarization with Integrated Declaration and Single Window Project

All stakeholders are requested to carefully go through the Integrated Declaration Form and the process outlined. This is a major initiative of the Department and is expected to significantly simplify and expedite the clearance process. In this regard, the Single Window project team has addressed several gatherings of trade at different forums in order to explain the concept of the Single Window and the Integrated Declaration. To further familiarize the trade about the content of Integrated Declaration, detailed presentations and interactive sessions will be held at all major Custom locations across the country in the third week of March, 2016. The schedules and venues for these training sessions will be notified separately by the respective Commissioner.

Source: Circular - 10/2016-Customs dated: 15th March, 2016

Read more at: https://www.icegate.gov.in/Download/circ10-2016cs.pdf

Case Laws:

➲ **Purchase of ocean-going vessel manufactured in India from an Indian Co. can't amount to import: SC**

Where no excise duty is payable on 'Vessels for breaking up' owing to exemption, then, on import of ships for breaking up, CVD viz. additional duty of customs equal to excise, would also be exempted.

Purchase of ocean-going vessel manufactured in India from an Indian company, cannot amount to import; hence, same cannot be charged to customs duty.

Section 3(1) of the Customs Tariff Act, 1975 - Charge/levy - Additional Duty of Customs/CVD - Assessee imported a ship for ship-breaking and for no other use - Department demanded additional duty of customs equal to excise duty - Assessee argued that since excise duty on 'Vessels and other floating structures for breaking up' was exempted vide exemption notification, even CVD could not be levied.

HELD : Revenue has not controverted that 'no excise duty is payable and product manufactured in India is exempted from excise duty' - In view thereof, there was no infirmity in view taken by High Court. [In favour of assessee]

Section 12 of the Customs Act, 1962 - Charge/levy - Customs Duty - H manufactured a vessel in India in customs bonded warehouse and sold same to D by charging excise duty - Said vessel was used for plying to and from India to abroad - D's vessel was auctioned and assessee purchased same - Customs Department asked assessee to file bill of entry and pay customs duty - Tribunal held that since vessel was imported in India consequent to purchase by assessee, same was liable to customs duty.

HELD : By no stretch of imagination, it can be treated as import when vessel was manufactured by an Indian company and was sold to another Indian company which was using this vessel - Hence, Tribunal had gone totally at a tangent and upheld demand of customs duty on totally irrelevant consideration - Hence, customs duty was ordered to be refunded. [In favour of assessee]

Circulars and Notifications: Notification No. 167/86-C.E., dated 1-3-1986

Case Law: Supreme Court of India, Union of India v. Engee Industrial Services Co. Ltd. [2016] 69 taxmann.com 21 (SC)

➲ **Refund claim of customs duties paid by SEZ units is maintainable before customs authorities: HC**

If duty paid by SEZ units is customs duty, refund thereof would be governed by section 27 of Customs Act and not by SEZ Act/rules; therefore, refund claim of customs duties paid by SEZ units would lie before Customs Authorities, not SEZ authorities.

Section 27 of the Customs Act, 1962, read with section 83 of the Finance Act, 1994 and section 11B of the Central Excise Act, 1944 - Refund - General - Assessee, a unit in SEZ, applied for refund of customs duty before Customs Department - Customs Department returned refund application on ground that in case of SEZ units, assessment is made by SEZ Authorities and in absence of any specific provision in SEZ Act/rules, refund claim would lie before SEZ Authorities only - SEZ Authorities declined to accept refund claim citing absence of any provision empowering them in this behalf.

HELD : As long as duty paid is in the nature of customs duty, refund thereof would be governed by section 27 of Customs Act and hence, customs authorities would be relevant authorities for said purpose - Hence, customs authorities were directed to admit and process refund claim. [In favour of assessee]

*Case Law: High Court of Gujarat, Jubilant Life Sciences Ltd. v. Ministry of Commerce & Industry
[2016] 69 taxmann.com 26 (Gujarat)*

➲ **Non-consideration of relevant facts by tribunal give rise to substantial question of law, appealable to HC**

Where a factual aspect deserves consideration of Tribunal but is not considered by Tribunal, then, non-consideration of such relevant factual aspect by Tribunal would give to substantial question of law so as to be appealable to High Court.

Section 35G, read with sections 9D, 11A and 35C, of the Central Excise Act, 1944 - Appeals - Maintainability of - High Court - Assessee [Standard Drums] was manufacturing drums on job-work for HPCL - Department raised demand alleging clandestine removal to undisclosed parties based on confessional statement of Managing Director (MD) - Assessee argued that : (a) statement was obtained under duress and was withdrawn vide its reply to show-cause notice; and (b) even otherwise, since goods were manufactured on job-work, no principal would allow use of its material for clearances to others - Tribunal confirmed demand on ground that clandestine removal was admitted. **HELD :** In reply to notice, assessee claimed that statement of MD was obtained under duress/threat - Since assessee was a job-worker and had denied even possibility of clandestine removal, Tribunal should have considered this aspect in detail - Though said aspect is factual, but, it deserved consideration and non-consideration thereof by Tribunal would give to substantial question of law. Hence, appeals were restored before Tribunal for consideration afresh. [In favour of assessee/Matter remanded]

*Case Law: High Court of Bombay, Ashok Patel, Deputy Managing Director v. Commissioner of Central Excise, Mumbai-II,
[2016] 69 taxmann.com 25 (Bombay)*

SERVICE TAX

Notifications / Circulars

➲ **Point of Taxation (Second Amendment) Rules, 2016 in order to amend Point of Taxation Rules, 2011 so as to prescribe point of taxation as the date of issuance of invoice in case of change in liability to pay service tax by the service recipient**

Where there is change in the liability or extent of liability of a person required to pay tax as recipient of service notified under sub-section (2) of section 68 of the Act, in case service has been provided and the invoice issued before the date of such change, but payment has not been made as on such date, the point of taxation shall be the date of issuance of invoice.

Source: Notification No. 21/2016-Service Tax dt. 30-03-2016

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st21-2016.pdf

➲ Consequent to the introduction of Swachh Bharat Cess, changes have been made in the ST-3 return form vide Notification No. 20/2016-ST, dated: 08/03/2016.

Read the full notification at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st20-2016.pdf

➲ Amendment of Notification No. 30/2012-Service Tax dated 20th June, 2012, so as to prescribe, the extent of service tax payable by the service provider and any other person liable for paying service tax other than the service provider vide *Notification No. 18/2016-Service Tax dt. 01-03-2016.*

Read full notification at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st18-2016.pdf

➲ CBEC seeks to amend notification No. 32/2012-Service Tax dated 20th June, 2012, so as to exempt services provided by the

bio-incubators approved by the Biotechnology Industry Research Assistance Council, under Department of Biotechnology, Government of India vide *Notification No. 12/2016-Service Tax dt. 01-03-2016*.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st12-2016.pdf

➲ CBEC exempts services in relation to Information Technology Software recorded on a media bearing RSP, provided Central Excise Duty has been paid vide *Notification No.11/2016-Service Tax dt. 01-03-2016*.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st11-2016.pdf

➲ **CBEC prescribes interest rate under section 73B of the Finance Act, 1994 vide Notification No. 14/2016-Service Tax dt. 01-03-2016**

In exercise of the powers conferred by section 73B of the Finance Act, 1994 (32 of 1994), the Central Government makes amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.8/2006-Service Tax, dated the 19th April, 2006, published in the Gazette of India, Extraordinary, vide number G.S.R. 224 (E), dated 19th April, 2006. In the said notification, for the words "eighteen per cent.", the words "fifteen per cent." shall be substituted.

Read in details at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st14-2016.pdf

➲ *Notification No. 08/2016-ST, dated: 01/03/2016* amends Notification No. 26/2012-Service Tax, dated 20th June 2012, so as to make necessary amendments in the specified entries prescribing taxable portion and the conditions for availing the exemption therein.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st08-2016.pdf

➲ **CBEC prescribes interest rate under section 75 of the Finance Act, 1994**

In exercise of the powers conferred by section 75 of the Finance Act, 1994 (32 of 1994) and in supersession of the notification No. 12/2014-Service Tax, dated the 11th July, 2014, published in the Gazette of India, Extraordinary, vide number G.S.R. 482 (E), dated the 11th July, 2014, except as respects things done or omitted to be done before such supersession, the Central Government hereby, for delayed payment of any amount as service tax in the situation mentioned in column (2) of the Table below, fixes the rate of simple interest per annum mentioned in the corresponding entry in the column (3) of the said Table:-

Serial Number	Situation	Rate of simple interest
1	2	3
1	Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due.	24 percent
2	Other than in situations covered under serial number 1 above.	15 percent

Source: Notification No. 13/2016-Service Tax, dated: 1st March, 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st13-2016.pdf

Case Laws:

➲ **Service tax can be levied on freight even if same is included in custom value of imported goods**

Service Tax: There is no law that 'if customs duty is chargeable, Service Tax is not leviable on same component'; hence, service tax may be levied on imported service, even if customs duty was already paid thereon by inclusion in customs value.

Service Tax: Expenditure or costs incurred by C&F Agent i.e., freight, insurance, loading, unloading, handling charges etc. are excluded from value, only if conditions enumerated in rule 5(2) of Service Tax Valuation Rules, 2006 are satisfied.

Section 67, read with section 66D(p), of the Finance Act, 1994, Rule 5 of the Service Tax (Determination of Value) Rules, 2006 and section 14 of the Customs Act, 1962 - Valuation of taxable services - Exclusion as pure agent - Assessee-importer appointed foreign C&F (Clearing and Forwarding) agent for import handling, arranging shipping liners, ocean freight, material clearance, local transport etc. - Foreign C&F agent would incur expenses on behalf of assessee on freight, insurance, loading, unloading and handling of goods, etc. and said expenses would form part 'customs value' - Assessee sought advance ruling 'whether said charges billed by C&F agent would be liable to service tax under reverse charge', despite fact that same are already included in customs value, as that would be 'double taxation' - HELD : There is no law that 'if customs duty is chargeable, Service Tax is not leviable on same component'; hence, assessee's argument against double taxation was rejected - Further, import freight upto customs station of clearance in India is covered in negative list under section 66D(p)(ii) - However, expenditure or costs incurred by C&F Agent i.e., freight, insurance, loading, unloading, handling charges etc. would be

excluded from value, only if conditions enumerated in rule 5(2) IBID are satisfied [Partly in favour of assessee]

Circulars and Notifications : Notification No. 34/2012-ST, dated 20-06-2012, Notification No. 31/2010-Cus, dated 27-02-2010, Notification No. 30/2012-ST, dated 20-06-2012.

Case Law: Authority for Advance Rulings (Central Excise, Customs and Service Tax), New Delhi, Berco Undercarriages (India) (P.) Ltd., In re [2016] 68 taxmann.com 380 (AAR - New Delhi)

➲ **Export benefits can't be denied if sum is received in foreign currency though contract is denominated in rupees**

Service Tax: Even if contract is designated in Indian currency to avoid loss due to currency fluctuations and to assure receipt of contracted amount and minimize risk of budgetary overrun, but, if consideration is actually received in convertible foreign exchange, benefit of export of service cannot be denied.

Rule 3 of the Export of Services Rules, 2005 - Export - Services - Period April 2006 and March 2008 - Assessee produced television programmes to be uplinked by SGL, Hong Kong - Assessee claimed it to be export of service - Department demanded service tax under 'Programme Production Services' and denied export claim as programmes were in Hindi and distributed by SGL to Indian viewers through Indian channels - HELD : If contract requires delivery of outcomes to overseas entity, services can be said to be delivered and used outside India - Programme was delivered abroad by assessee and used by overseas entity; subsequent broadcasting of that programme by overseas entity is irrelevant to decide taxability in hands of assessee - Hence, it was export of service. [In favour of assessee]

Rule 3 of the Export of Services Rules, 2005, read with rule 6A of the Service Tax Rules, 1994 - Export - Services - Assessee provided service outside India and received consideration in convertible foreign exchange - Department denied export claim on ground that payment was designated in contract in Indian currency - Assessee argued that contract was normally designated in Indian currency to avoid loss due to currency fluctuations and to assure receipt of contracted amount and minimize risk of budgetary overrun - HELD : Assessee's justification was acceptable as logical - In fact, Indian rupee could not have been received as inward remittance through banking channels because of its non-convertibility - Since inward remittance was in convertible foreign currency, export benefit was available. [In favour of assessee]

Section 65(86a) of the Finance Act, 1994 - Taxable services - Programme Production Services - It is not 'programme' that is taxable but service rendered by a 'programme producer' in relation to a programme, which is taxed - If programme producer or any other person further disseminates programme to others, such dissemination is liable for tax as a separate and distinct service - Hence, usage of programme after delivery to client is irrelevant in deciding upon tax liability as 'programme producer'. [In favour of assessee]

Section 86 of the Finance Act, 1994, read with sections 35B and 35E of the Central Excise Act, 1944 and sections 129A and 129D of the Customs Act, 1962 - Appeals - By department on review of orders - Appellate Tribunal - Department issued show-cause notice proposing denial of export benefit, but, adjudicating authority dropped said notice - Reviewing authority reviewed said order on grounds raised in show-cause notice and recommended filing of appeal - HELD : Review proceeding mirrors show cause notice which had been considered at length and rejected in adjudication order - No substantive counter to findings of adjudicating authority have been adduced in grounds of appeal - Mere reiteration of show cause notice is not sufficient [In favour of assessee]

Case Law: CESTAT, Mumbai Bench, Commissioner of Service Tax v. Balaji Telefilms Ltd.
[2016] 68 taxmann.com 301 (Mumbai - CESTAT)

➲ **Acting as custodian of goods and receiving remuneration on basis of quantum of sale are commission agent's services**

Service Tax : Where assessee : (a) entered into agency agreement with Spa, (b) provided space for display and storage of goods of Spa, (c) acted as custodian of goods of Spa, and (d) received remuneration based upon quantum of sale with minimum guaranteed amount, then, assessee was a 'commission agent' and was liable to service tax under Business Auxiliary Services.

Section 65(19), read with section 65(90a) of the Finance Act, 1994 - Taxable services - Business Auxiliary Services - Period February 2004 to April 2006 - Assessee-HUF entered into 'retail agency' with Style Spa where under assessee provided space for exhibiting products of Spa, and sold goods to customers for commission at 1 per cent of sale price, with minimum of Rs. 1,10,000 per month - Department argued that it was taxable as commission agent under Business Auxiliary Service - Assessee argued that : (a) it had merely rented out space; and (b) being HUF, it was not a commercial concern - HELD : Even HUF can be a commercial concern - Though assessee's arrangement with Spa was predicated upon possession of space for display and storage of goods of Spa, however, assessee acted as custodian of goods and remuneration was also based upon quantum of sale with minimum guaranteed amount - Hence, assessee was 'commission agent' and was exempt up to 8-7-2004 and liable to service tax from 9-7-2004 [Partly in favour of revenue]

Section 67 of the Finance Act, 1994 - Valuation of taxable services - Cum-tax Benefit - Assessee-agent was entitled to commission at 1 per cent of sale price, with minimum of Rs. 1,10,000 per month

- Assessee did not pay service tax - On demand, assessee claimed cum-tax benefit - HELD : Assessee's plea of cum-tax computation was justified [In favour of assessee]

Section 80, read with sections 76, 77 and 78 of the Finance Act, 1994 - Penalty - Not to be imposed in certain cases - Assessee did not pay service tax - Department levied penalties - Assessee claimed that it was under bona fide view that individuals are not commercial concerns and not liable to service tax - HELD : In view of reasonableness of doubt that individuals may not be commercial concern, penalty was waived invoking section 80. [In favour of assessee]

Circulars and Notifications: Notification No. 13/2003-ST, dated 20-6-2003, Notification No. 8/2004-ST, dated 9-7-2004

Case Law: CESTAT, Mumbai Bench, C.M. Sapkal v. Commissioner of Central Excise, Nagpur
[2016] 68 taxmann.com 327 (Mumbai - CESTAT)

CENTRAL EXCISE

Notifications / Circulars

➲ **Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) (Amendment) Rules, 2016**

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) the Central Government hereby makes rules to amend the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016, namely Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) (Amendment) Rules, 2016.

Source: Notification No. 22/2016 - Central Excise (N.T.) dated: 15th March, 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent22-2016.pdf;jsessionid=31AA30A02B19342C53F2B0806E98CF6B

➲ **Rate of interest at fifteen per cent per annum for the purposes of section 11AA of the Central Excise Act, 1944**

In exercise of the powers conferred by section 11AA of the Central Excise Act, 1944 (1of 1944) and in supersession of the notification of the Government of India in the Ministry of Finance(Department of Revenue) No.5/2011 - Central Excise(N.T.), dated the 1st March, 2011 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub - section (i), vide, number GSR 136(E), dated the 1st March, 2011, except as respects things done or omitted to be done before such supersession, the Central Government hereby fixes the rate of interest at *fifteen percent* per annum for the purposes of the said section. This notification shall come into force from the 1st day of April, 2016.

Source: Notification No. 15/2016 Central Excise (N.T) dated: 1st March 2016

Read more at: http://indiabudget.nic.in/ub2016-17/cen/cent1516.pdf

➲ CBEC further amended the Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010 vide Notification No. 10/2016-CENT dt. 01-03-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent10-2016.pdf

➲ **Amendment of Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Rules, 2008 vide Notification No. 09/2016-CENT dt. 01-03-2016**

In exercise of the powers conferred by sub-sections (2) and (3) of section 3A of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Rules, 2008, namely the Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Amendment Rules, 2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent09-2016.pdf

➲ **CENVAT Credit (Fourth Amendment) Rules, 2016**

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely the CENVAT Credit (Fourth Amendment) Rules, 2016.

In the CENVAT Credit Rules, 2004,-

(a) in rule 6, in sub-rule (3) for clause (i), the following clause shall be substituted namely :-

"(i) pay an amount equal to six per cent. of value of the exempted goods and seven percent of value of the exempted services subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period; or" ;

(b) in rule 7B, in sub-rule (1) for the words and figures "invoices, issued in terms of the provisions of the Central Excise Rules, 2002," the words and figure "documents specified under rule 9," shall be substituted.

Source: Notification No. 23 /2016- Central Excise (N.T.) dated: 1st April, 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent23-2016.pdf;jsessionid=5540335954791CFFE7E74186AB81DC7F

➲ **CBEC amends Central Excise Rules, 2002 vide Notification No. 08/2016-CENT dt. 01-03-2016**

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 2002, namely Central Excise (Amendment) Rules, 2016.

In the Central Excise Rules, 2002 (hereinafter referred to as the said rules), in rule 7, for sub-rule (4), the following sub-rule shall be substituted, namely:-

Rule - 4 : The assessee shall be liable to pay interest on any amount paid or payable on the goods under provisional assessment, but not paid on the due date specified under sub-rule (1) of rule 8 and the first proviso thereto, as the case may be, at the rate specified by the Central Government, vide, notification under section 11AA of the Act, for the period starting with the first day after the due date till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.

Read the full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent08-2016.pdf

➲ **CBEC provides a procedure for obtaining Centralized Registration for manufacturers of articles of jewellery vide Notification No. 05/2016-CENT dt. 01-03-2016**

In exercise of the powers conferred by sub-rule (2) of rule 9 of the Central Excise Rules, 2002, the Central Board of Excise and Customs hereby exempts from the operation of said rule, every manufacturing factory or premises engaged in the manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (herein after referred to as the specified goods), where the manufacturer of such goods has a centralised billing or accounting system in respect of such specified goods manufactured or produced by different factories or premises and opts for registering only the factory or premises or office, from where such centralised billing or accounting is done and where the accounts/records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept. For availing the exemption contained herein, the manufacturer taking the centralised registration shall give details of all premises (other than those of job worker's), from where such specified goods are removed for domestic clearance.

Notwithstanding anything contained in this notification, a manufacturer of specified goods may also take separate registrations for all factories or premises where the accounts/records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent05-2016.pdf

➲ Amendment of Notification No. 27/2012-Central Excise (N.T) so as to prescribe the time limit for filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services vide *Notification No. 14/2016-CENT dt. 01-03-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent14-2016.pdf

➲ Exemption of central excise duty on media with recorded Information Technology Software on so much value as is equivalent to the value of the Information Technology Software recorded on the said media which is leviable to Service tax under Finance Act, 1994 vide *Notification No. 11/2016-CE, dt. 01-03-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-tarr2016/ce11-2016.pdf

INCOME TAX

Notifications / Circulars

➲ **Income-Tax (Ninth Amendment) Rules, 2016**

Substitution of Forms SAHAJ (ITR-1), ITR-2, ITR-2A, ITR-3, SUGAM (ITR-4S), ITR-4, ITR-5, ITR-6, ITR-7 and ITR-V vide *Notification No. 24/2016 (F.NO.370142/2/2016-TPL)], dated: 30-3-2016.*

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification24_2016.pdf

➲ **Income-tax (8th Amendment) Rules, 2016**

In Exercise of the powers conferred by section 295 of the In-

come-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following rules further to amend the Income-tax Rules, 1962, namely the Income-tax (8th Amendment) Rules, 2016.
In the Income-tax Rules, 1962, in rule 17C, after clause (viii), the following clause shall be inserted, namely:-
"(ix) Investment in "Stock Certificate" as defined in clause (c) of paragraph 2 of the Sovereign Gold Bonds Scheme, 2015, published in the Official Gazette vide notification number G.S.R. 827(E), dated the 30th October, 2015.".

Source: Notification No. 21/2016/ F.No. 142/1/2016-TPL, dated: 23rd March, 2016

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification21_2016.pdf

➲ CBDT notifies rules to determine period of holding of convertible debentures or bonds

Income-Tax (Sixth Amendment) Rules, 2016 - Insertion of Rule 8AA

In exercise of the powers conferred by section 2, read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely the Income-tax (6th Amendment) Rules, 2016.

In the Income-tax Rules, 1962, after rule 8A, the following rule shall be inserted, namely:—
"**8AA** - Method of determination of period of holding of capital assets in certain cases — (1) The period for which any capital asset, other than the capital assets mentioned in clause (i) of the Explanation 1 to clause (42A) of section 2 of the Act, is held by an assessee, shall be determined in accordance with the provisions of this rule.

In the case of a capital asset, being a share or debenture of a company, which becomes the property of the assessee in the circumstances mentioned in clause (x) of section 47 of the Act, there shall be included the period for which the bond, debenture, debenture-stock or deposit certificate, as the case may be, was held by the assessee prior to the conversion."

Source: Notification No. 18/2016 (F.NO.142/1/2016-TPL), dated: 17-3-2016

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification18_2016.pdf

➲ Agreement between the Government of the republic of India and the Government of the republic of Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

Whereas, an Agreement between the Government of the Republic of India and the Government of the Republic of Indonesia for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income was signed at New Delhi on the 27th day of July, 2012 (hereinafter referred to as the said Agreement);

And whereas, the said Agreement entered into force on the 5th day of February, 2016, being the date of the later of the notifications of the completion of the procedures required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 30 of the said Agreement;

And whereas, sub-paragraph (a) of paragraph 3 of Article 30 of the said Agreement provides that the provisions of the said Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the said Agreement enters into force;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement, as annexed hereto, shall be given effect to in the Union of India.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification17_2016.pdf

Source: Notification No. 17/2016 [F.No.503/4/2005-FTD-II] / SO 1144(E), dated: 16-3-2016

➲ Notification No. 15 /2016 [F.No.196/6/2015-ITA-I] / SO 1139(E), dated: 16 March 2016

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the Karnataka Urban Water Supply and Drainage Board a Board constituted under the Karnataka Urban Water Supply and Drainage Board Act, 1973 (Karnataka Act No. 25 of 1974), in respect of the following specified income arising to that Board, namely:-
(a) Establishment, administrative and supervision charges collected as a percentage of project cost;
prescribed by the Karnataka Public Works Department Accounts Code of Government of Karnataka;
(b) Water charges collection for supply of water to local bodies and directly to consumers;
(c) Interest on investments and fixed deposit in banks;
(d) Rent collected for letting out head office building 'JAL BHAWAN';
(e) Forfeiture of earnest money deposit.

This notification shall be effective subject to the conditions that the Karnataka Urban Water Supply and Drainage Board -
(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income remain unchanged throughout the financial years; and
(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
This notification shall be deemed to have been apply for the financial year 2014-2015 and shall apply with respect to the financial years 2015-2016, 2016-2017, 2017-2018 and 2018-2019.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification15_2016.pdf

➲ CBDT notifies new form 35 for e-filing of Appeal with CIT (A) - Notification No.11/2016 [F.No.149/150/2015-TPL] / SO 637(E) : Income-tax (3rd Amendment) Rules, 2016, dated: 1st March 2016

In exercise of the powers conferred by sub-section (1) of section 249, read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely the Income-tax (3rd Amendment) Rules, 2016. In the Income-tax Rules, 1962 (herein after referred to as the said rules), for rule 45, the following rule shall be substituted, namely:-

Rule "45 - Form of appeal to Commissioner (Appeals) -
(1) An appeal to the Commissioner (Appeals) shall be made in Form No. 35.
(2) Form No. 35 shall be furnished in the following manner, namely:-
(a) in the case of a person who is required to furnish return of income electronically under sub-rule(3) of rule 12,-
(i) by furnishing the form electronically under digital signature, if the return of income is furnished under digital signature;
(ii) by furnishing the form electronically through electronic verification code in a case not covered under sub-clause (i);
(b) in a case where the assessee has the option to furnish the return of income in paper form, by furnishing the form electronically in accordance with clause (a) of sub-rule(2) or in paper form.
(3) The form of appeal referred to in sub-rule (1), shall be verified by the person who is authorised to verify the return of income under section 140 of the Act, as applicable to the assessee.
(4) Any document accompanying Form No. 35 shall be furnished in the manner in which the said form is furnished.
(5) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall-
(i) specify the procedure for electronic filing of Form No.35 and documents;
(ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule(2), for the purpose of verification of the person furnishing the said form; and
(iii) be responsible for formulating and implementing appropriate security, archival and retrieval of policies in relation to the said form so furnished."

➲ Notification No.12/2016 [F. No. 196/51/2012-ITA.I], dated: 2nd March, 2016

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the State Load Despatch Centre Unscheduled Interchange Fund West Bengal State_Electricity Transmission Company Limited (PAN AAIAS0980J), a trust constituted under the Electricity Act, 2003 (36 of 2003) in respect of the following specified income arising to that trust, namely :-

(a) residual money in the unscheduled interchange pool balance account;
(b) interest on fixed deposits and auto-sweep accounts; and
(c) income incidental to or related to unscheduled interchange.
The notification shall be subject to the following conditions, namely that the State Load Despatch Centre Unscheduled Interchange Fund – West Bengal State Electricity Transmission Company Limited,-
(a) shall not engage in any commercial activity;
(b) shall not change its activities and the nature of the specified income shall remain unchanged throughout the financial years; and
(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the said Act.
This notification shall be deemed to be applicable for the financial years 2012-2013, 2013-2014, 2014- 2015 and applicable for the financial years 2015-2016 and 2016-2017.

➲ Income-tax (5th Amendment) Rules, 2016

In exercise of the powers conferred by section 9A read with section 295 of the Income-tax Act, 1961(43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely Income-tax (5th Amendment) Rules, 2016. In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), after rule 10UC the following rules shall be inserted, namely:-

Rule 10V - Guidelines for application of section 9A
(1) Where the investment in the fund has been made directly by an institutional entity, the number of members and the participation interest in the fund shall be determined by looking through the said entity, if it, -
(a) independently satisfies the conditions mentioned in clauses (c), (e), (f) and (g) of sub-section (3) of section 9A;
(b) has been setup solely for the purpose of pooling funds and investment thereof; and
(c) is resident of a country or specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into.
(2) For the purposes of clause (c) of sub-section (3) of section 9A, where direct investor in the fund is a person other than a natural

person, the fund shall undertake appropriate due diligence to ascertain the indirect participation, if any, of a person resident in India and the extent thereof:
Provided that where such direct investor is, the Government or the Central bank or a sovereign fund or a multilateral agency or appropriately regulated investor in the form of pension fund or University fund or a bank or collective investment vehicles such as mutual funds, the fund shall obtain a declaration in writing from the direct investor regarding the participation, if any, of a person resident in India and the indirect participation in the fund of any person resident in India may be determined by the fund on the basis of such declaration.

Explanation – For the purposes of this sub-rule an investor shall be considered to be appropriately regulated if it is regulated or supervised by the securities market regulator or the banking regulator of the country outside India of which it is resident, in the same capacity in which it has made investment in the fund.
(3) A fund shall not be denied the benefit of being an eligible fund for the purposes of section 9A, if, -
(a) non-fulfilment of any of the conditions specified in clauses (c), (d) and (e) of sub-section (3) of section 9A, -
(i) is for the reasons beyond the control of the fund and it does not exceed a period of ninety days;
(ii) does not exceed a period of eighteen months beginning from the date on which the fund is setup or is not beyond the final closing of the fund, whichever is earlier, and bonafide efforts are made to satisfy the conditions specified in the clauses (c), (d) and(e) of sub-section (3) of section 9A;
(iii) is for the reason that the fund is in the process of being wound up and it does not exceed a period of one year beginning from the date on which the process of winding has begun; or
(b) there is delay in furnishing the statement referred to in sub-section (5) of section 9A and such delay does not exceed a period of ninety days.
(4) For the purposes of clause (k) of sub-section (3) of section 9A, a fund shall be said to be controlling or managing a business carried out by any entity, if the fund directly or indirectly holds such rights in, or in relation to, the entity, which results in the fund holding the share capital or a voting power or an interest exceeding twenty six per cent. of the total share capital of, or as the case may be, total voting power or total interest in, the entity.
(5) Subject to the provisions of sub- rules (6), (7) and (8), for the purposes of determining the arm's length price in respect of any remuneration, paid by the eligible investment fund to an eligible fund manager, referred to in clause (m) of sub-section (3) of section 9A, the provisions of the Act shall apply as if,-
(i) the transaction between the eligible investment fund and the eligible fund manager is an international transaction; and
(ii) the eligible investment fund and the eligible fund manager are associated enterprises.
(6) The fund manager shall keep and maintain information and documents as required under section 92D and the rules made thereunder.
(7) The fund manager shall, in addition to any report required to be furnished by it under section 92E, obtain a report from the accountant in respect of activity undertaken for the fund and furnish such report on or before the specified date in the Form No. 3CEJ duly verified by such accountant in the manner indicated therein and all the provisions of the Act shall apply as if it is a report to be furnished under section 92E.

Explanation - For the purposes of this sub-rule "specified date" shall have the same meaning as assigned to "due date" in the Explanation 2 below sub-section (1) of section 139.

(8) Where the fund manager has either not maintained the document or information as required under section 92D and the rules made thereunder or not produced the document or information before the Assessing Officer or the Transfer Pricing Officer, as the case may be, then, the Assessing Officer or the Transfer Pricing Officer, as the case may be, shall, before determining the arm's length price for the purposes of clause (m) of sub-section (3) of section 9A, provide an opportunity to the fund to produce the information and documents necessary for the determination of the arm's length price and the arm's length price shall be determined after considering the documents or information, if any, provided by the fund.
(9) If in any previous year, it is determined that the remuneration paid or payable by a fund to the fund manager is not in accordance with the provisions of clause (m) of sub-section (3) of section 9A, then the benefits of section 9A shall not be denied to the fund which otherwise satisfies all other conditions specified in section 9A.
(10) Nothing contained in sub-rule (9) shall apply to a fund if the remuneration paid or payable by the fund to the fund manager has been determined to be not at arm's length price, -
(a) for a period of three previous years in succession; or
(b) for any three out of the preceding four previous years.

Rule 10VA - Approval of the fund
(1) An investment fund may at its option seek approval of the Board regarding its eligibility for the purposes of section 9A.
(2) The fund seeking approval may make an application in writing, enclosing relevant documents and evidence, to Member (Income-tax), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi.
(3) The application under sub-rule (2) shall be made three months before the beginning of the previous year for which the fund seeks the approval.
(4) A committee as notified by the Board, shall examine the application and submit its recommendations regarding grant of approval or otherwise and the conditions, if any, subject to which such an approval is to be granted.
(5) The committee referred to in sub-rule(4) shall be headed by a Principal Chief Commissioner or Chief Commissioner, as the case may be, and consist of two other Income-tax authorities not below

the rank of Commissioner.
(6) The committee on behalf of the Board may, before giving its recommendation, call for such documents or information from the investment fund as it may consider necessary and may call for further details or information from the fund as well as from the Income-tax authorities and other Departments or agencies, as it may deem fit.
(7) The Board, on the basis of the recommendations of the committee, shall, within sixty days from the end of the month in which the application under sub-rule (2) has been made,-
(i) by an order in writing, grant approval to the fund subject to such conditions as it may deem fit; or
(ii) for reasons to be recorded in writing, reject the application.
(8) The approval once granted, subject to any condition specified in this behalf, shall be applicable for the previous year referred to in sub-rule(3) and subsequent previous years unless it is withdrawn by the Board.
(9) The benefit of section 9A shall not be denied to an eligible investment fund, which has been granted approval, for any previous year for which the approval is in force and has not been withdrawn.
(10) The Board may withdraw the approval granted to any fund, if it is satisfied that, -
(a) the approval has been obtained on the basis of misrepresentation of facts or fraud ;or
(b) the conditions mentioned in section 9A are not fulfilled; or
(c) any condition subject to which approval was granted, has been violated.
(11) No order rejecting the application or withdrawing the approval, shall be passed without giving an opportunity of being heard.
(12) A copy of the order rejecting the application or withdrawing the approval shall be communicated to the fund as well as the Assessing Officer and the Principal Commissioner or Commissioner having jurisdiction over the fund.

Rule 10VB - Statement to be furnished by the fund
(1) The statement required to be furnished under sub-section (5) of section 9A shall be furnished for every financial year by the eligible investment fund in Form No.3CEK duly verified in the manner indicated therein, to the Assessing Officer who has the jurisdiction over the fund or would have had the jurisdiction had such fund been assessable to tax in India but for the provision of section 9A.
(2) The annual statement referred to in sub-rule (1) shall be furnished electronically under digital signature.
(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing of annual statement in the manner specified in sub-rule (2)."

Source: Notification No. 14/2016 [F.No. 142/15/2015-TPL], dated: 15th March, 2016

➲ **Notification No. 23/2016/F.No.196/13/2015-ITA-I] dated: 29th March, 2016**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the Maharashtra State Board of Technical Education, a Board constituted under the Maharashtra State Board of Technical Education Act, 1997, of the Government of Maharashtra, in respect of the following specified income arising to that Board, namely:—
(a) fees, fines and penalties;
(b) receipts from Printed Educational Material;
(c) receipts from Scrap or Waste paper;
(d) receipts from other Government Bodies;
(e) interest income from surplus funds kept in bank accounts and fixed deposits;
(f) rent received from let out of properties;
(g) royalty or License fees for providing technical knowledge and infrastructure;
(h) dividend earned from Maharashtra Knowledge Corporation Ltd;
(i) capital gains, if any, from disposal of assets as per Government financial guideline and rules of Government of Maharashtra.
This notification shall be effective subject to the following conditions, namely:—
(a) that the Maharashtra State Board of Technical Education shall not engage in any commercial activity;
(b) that the activities and the nature of the specified income of the Maharashtra State Board of Technical Education remain unchanged throughout the financial years; and
(c) that the Maharashtra State Board of Technical Education shall file return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification23_2016.pdf

➲ **Notification No. 16 /2016, F. No. 196/28/2012-ITA-I, dated: 16th March, 2016**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, "National Biodiversity Authority" an authority established under the Biological Diversity Act, 2002 (18 of 2003) in respect of the following specified income arising to that Authority, namely:—

(a) amount received in the form of grant-in-aid from the Government of India;
(b) amount received in the form of interest;
(c) benefit sharing fee and royalty received;
(d) amount received in the form of penalty and application fees.
This notification shall be effective subject to the following conditions, namely:—

(a) the National Biodiversity Authority shall not engage in any commercial activity;
(b) the activities and the nature of the specified income of the National Biodiversity Authority shall remain unchanged throughout the financial years; and
(c) the National Biodiversity Authority shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the said Act.

Case Laws

➲ **No tax on supply of equipment by foreign Co. just because installation work was done by its Indian subsidiary**

Income from supply of equipment can't be taxed in India merely because Indian subsidiary company installed it

FACTS:

(a) Assessee-company was resident of USA and part of Nortel group of companies. There was a liason office (Nortel LO) and a company (Nortel India) in India which belonged to assessee's group. NC entered into three different contracts with Indian client to supply equipments, services and software respectively. Nortel India assigned contract of supply of equipments to the assessee. Consequently, Indian client placed purchase orders directly on the assessee and also made all payments for the equipment supplied directly to the assessee. Assessee claimed that its income was not chargeable to tax in India.

(b) Assessing Officer held that Nortel LO and Nortel India constituted assessee's PE in India. He, accordingly, computed taxable income of assessee.

HELD:

(a) There is no material on record that would even remotely suggest that Nortel LO had acted on behalf of the assessee in negotiating and concluding agreements on its behalf. Thus, it is not possible to accept that the offices of Nortel LO could be considered as a fixed place of business of the assessee. In so far as Nortel India is concerned, there is also no evidence that the offices of Nortel India were at the disposal of the assessee. Even if it is accepted that Nortel India had acted on behalf of the asssessee, it does not necessarily follow that the offices of Nortel India constituted a fixed place business PE of the assessee. Nortel India is an independent company and a separate taxable entity under the Act. There is no material on record which would indicate that its office was used as an office by the assessee. Even if it is accepted that certain activities were carried on by Nortel India on behalf of the assessee unless the conditions of paragraph 5 of Article 7 of the Indo-US DTAA is satisfied, it cannot be held that Nortel India constituted a fixed place of business of the assessee. There was also no material on record to conclude that Nortel India or Nortel LO was either (a) sales outlet; or (b) installation PE; or (c) service PE; or (d) dependent agent PE, of assessee in India.
(b) The appellate authorities below have proceeded on the basis that the assessee had employed the services of Nortel India for fulfilling its obligations of installation, commissioning, after sales service and warranty services. The Tribunal also concurred with the view that since employees of group companies had visited India in connection with the project, the business of the assessee was carried out by those employees from the business premises of Nortel India and Nortel LO. In this regard, it is relevant to observe that a subsidiary company is an independent tax entity and its income is chargeable to tax in the state where it is resident. In the present case, the tax payable on activities carried out by Nortel India would have to be captured in the hands of Nortel India. Chapter X of the Act provides an exhaustive mechanism for determining the Arm's Length Price in case of related party transactions for ensuring that real income of an Indian assessee is charged to tax under the Act. Thus, the income from installation, commissioning and testing activities as well as any function performed by expatriate employees of the group companies seconded to Nortel India would be subject to tax in the hands of Nortel India and the same cannot be considered as income of the assessee.

Case Law: High Court of Delhi, Nortel Networks India International INC. v. Director of Income-tax-I, S. Muralidhar and Vibhu Bakhru, JJ. [2016] 69 taxmann.com 47 (Delhi)

➲ **Indian transfer pricing provisions don't apply to capital account transactions**
IT/ILT : Transaction which is on capital account, and from which no income/potential income arises, cannot come within purview of Indian Transfer pricing provisions

Section 92B, read with sections 92C and 2(24), of the Income-tax Act, 1961 and rule 10B of the Income-tax Rules, 1962 - Transfer pricing - International transaction - Meaning of (Conditions precedent) - Whether income arising from international transaction is a condition precedent for computing ALP and such income should be chargeable to tax under Act; in absence of such income, benchmarking of an international transaction and computing ALP thereof would not be in order -Held, yes - Whether, consequently, if an international transaction is on capital account and does not result in income as defined under section 2(24), provisions of Chapter X of Act would not be applicable to such transaction - Held, yes - Whether 'any income arising from an international transaction shall be computed having regard to Arm's Length Price' implies that potential income, if any, should arise from impugned international transaction which is before Transfer Pricing Officer for consideration and not out of a hypothetical international transaction which may or may not take place in future.

Held, yes - Whether irrespective of nature of transaction under comparability whether inbound share investment or outbound share investment, comparison has to be with comparables and not with what options or choices were available to assessee for earning income or maximizing returns; thus, what is made applicable for inbound share investment would be equally applicable to outbound share investments also - Held, yes - Whether in absence of thin capitalization rules, debt capital could not be re-characterized as equity capital - Held, yes [In favour of assessee]

Source: In the ITAT Mumbai Bench 'K', Topsgrup Electronic Systems Ltd. v. Income-Tax Officer- 8(3)(3), Mumbai [2016] 67 taxmann.com 310 (Mumbai - Trib.)

➲ No denial of sec. 10B relief if Development Commissioner of SEZ granted approval to assessee as a 100% EOU

Where Development Commissioner SEZ, Ministry of Commerce and Industry had granted approval to assessee as a 100 per cent EOU and not as a SEZ unit, claim under section 10B deserved to be allowed

Section 10B, read with section 263, of the Income-tax Act, 1961 - Export-oriented undertaking (Allowability of) - Assessment year 2010-11 - Assessee-firm developed softwares for foreign clients - It filed return claiming deduction under section 10B - Assessing Officer allowed assessee's claim - Commissioner opined that assessee was a 'unit' under SEZ and not a 100 percent EOU as envisaged under section 10B - He passed a revisional order setting aside assessment - Tribunal found from records that Development Commissioner, SEZ, Ministry of Commerce and Industry, had granted approval to assessee as a 100 per cent EOU and not a SEZ unit and, thus, assessee was entitled to claim deduction under section 10B - Tribunal set aside revisional order - Whether since revenue failed to controvert finding recorded by Tribunal, impugned order did not require any interference - Held, yes [In favour of assessee]

FACTS

- The assessee-firm developed softwares for foreign clients. It filed return claiming deduction under section 10B.
- The Assessing Officer allowed assessee's claim taking a view that assessee was 100 per cent EOU instead of SEZ unit.
- The Commissioner was of the view that a 'Unit' under SEZ did not contain the same meaning as an 'undertaking' envisaged in section 10B of the Act. Further as per clause (zc) of section 2 of the Special Economic Zones Act, 2005, a 'Unit' means a unit set up by an entrepreneur in a Special Economic Zone and includes an existing unit, and offshore banking unit and a unit in an international financial services Centre. He opined that the assessee's unit was located outside the defined SEZ and, hence, the assessee was not eligible for any deduction under section 10B. The Commissioner thus passed a revisional order setting aside the assessment.
- The Tribunal, however, restored order passed by Assessing Officer.
- On revenue's appeal:

HELD

- A perusal of the impugned order reveals that the Tribunal has, upon appreciation of the evidence on record, taken note of the fact that the Development Commissioner, Special Economic Zone, Ministry of Commerce and Industry had granted approval to the assessee in EOU Scheme 2004-05 for establishment of a new Undertaking at the address mentioned therein. The Tribunal found that the Development Commissioner, SEZ had approved the assessee as a 100 per cent Export-Oriented Undertaking and not a SEZ Unit as interpreted by the Commissioner.
- The Tribunal placed reliance upon the decision of the Delhi High Court in the case of CIT v. Enable Export (P.) Ltd. [2012] 17 taxmann.com 182/204 Taxman 134 (Mag.), wherein it was held that once the Development Commissioner, exercising power of the Board of Approval, gives his assent to an Undertaking, the same is valid for claiming deduction under section 10B and accordingly, held that the assessee had established a new 100 per cent Export-Oriented Undertaking under section 10B and not a SEZ Unit as perceived by the Commissioner and reversed the order passed under section 263.
- From the findings recorded by the Commissioner, it is apparent that he has revised the assessment order on the ground that the assessee is not a 100 per cent Export-Oriented Undertaking, but an Export-Oriented Unit and does not have the approval of the Board of Approval. However, upon the assessee bringing it to the notice of the Commissioner that both the above factors are satisfied, the Commissioner has proceeded on a totally different footing that a 'unit' under Special Economic Zone did not carry the same meaning as an 'Undertaking' as envisaged under section 10B and that the assessee's unit being located outside the defined SEZ, was not eligible for deduction under section 10B.
- From the facts as emerging from the record, it is evident that the assessee's unit was granted approval as a 100 per cent Export Oriented Undertaking. The assessee being a 100 per cent Export Oriented Undertaking, was therefore, entitled to claim deduction under section 10B. The Commissioner, on an erroneous reading of the facts on the record, has come to the conclusion that the assessee is a 'unit' under the SEZ and not a 100 per cent Export Oriented Undertaking and has, accordingly, come to the conclusion that since the assessee's unit is not located within a defined SEZ it is not entitled to the benefit of deduction under section 10B.
- Evidently therefore, the conclusion arrived at by the Commissioner is based upon an erroneous finding of fact. The Tribunal, therefore, did not commit any error in holding that the assessee was a 100 per cent Export Oriented Undertaking and not an SEZ Unit and therefore, entitled to deduction under section 10B.
- The appeal, therefore, fails and is, accordingly, dismissed.

Case Law: High Court of Gujarat, Principal Commissioner of Income-tax-3 Ahmedabad v. Zealous Web Technologies [2016] 68 taxmann.com 379 (Gujarat)

SEBI

Notifications / Circulars

➲ Clarification regarding applicability of Indian Accounting Standards to disclosures in offer documents under SEBI (ICDR) Regulations, 2009

SEBI (ICDR) Regulations, 2009 require disclosure of financial information for each of the five financial years immediately preceding the filing of the offer document while following uniform accounting policies for each of the financial years. Ministry of Corporate Affairs ('MCA') has notified the Companies (Indian Accounting Standards) Rules, 2015 on February 16, 2015 providing revised roadmap on implementation of Indian Accounting Standards ('Ind AS') which stipulates implementation of Ind AS in a phased manner beginning from accounting period 2016-17 ('MCA Roadmap').

Source: Circular - SEBI/HO/CFD/DIL/CIR/P/2016/47, dated: March 31, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1459418165606.pdf

➲ Investments by FPIs in Government securities

RBI in its Fourth Bi-monthly Policy Statement for the year 2015-16, dated September 29, 2015 had announced a Medium Term Framework (MTF) for FPI limits in Government securities in consultation with the Government of India. Accordingly, SEBI had issued circular CIR/IMD/FPIC/8/2015 dated October 06, 2015 regarding the allocation and monitoring of FPI debt investment limits in Government securities.

As announced in the MTF and in partial modification to Para 3 of the SEBI circular - CIR/IMD/FPIC/8/2015 dated October 06, 2015, it has been decided to enhance the limit for investment by FPIs in Government Securities, for the next half year, as follows:

a. Limit for FPIs in Central Government securities shall be enhanced to INR 140,000 cr on April 04, 2016 and INR 144,000 cr on July 05, 2016 respectively from the existing limit of INR 135,400 cr.
b. Limit for Long Term FPIs (Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks) in Central Government securities shall be enhanced to INR 50,000 cr and INR 56,000 cr on April 04, 2016 and July 05, 2016 respectively from the existing limit of INR 44,100 cr.
c. The limit for investment by all FPIs in State Development Loans (SDL) shall be enhanced to INR 10,500 cr on April 04, 2016 and INR 14,000 cr on July 05, 2016 respectively from the existing limit of INR 7,000 cr.

Revised FPI debt limits is in the link given below:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1459256641568.pdf

Source: Circular -IMD/FPIC/CIR/P/2016/45, dated: March 29, 2016

➲ Introduction of Exchange Traded Cross Currency Derivatives contracts on EUR-USD, GBP-USD and USD-JPY currency pairs and Exchange Traded Option contracts on EUR-INR, GBP-INR and JPY-INR currency pairs

It has been decided to permit recognized stock exchanges to introduce cross-currency futures and options contracts on EUR-USD, GBP-USD and USD-JPY. Further, it has also been decided to permit recognized stock exchanges to introduce currency options on EUR-INR, GBP-INR and JPY-INR currency pairs.

Eligible market participants, i.e., stock brokers, domestic institutional investors, FPIs and clients, are allowed to take positions in the exchange traded cross-currency futures and option contracts in the EUR-USD, GBP-USD and USD-JPY currency pairs and exchange traded currency option contracts in EUR-INR, GBP-INR and JPY-INR currency pairs, subject to terms and conditions mentioned in this circular and the aforesaid circular of RBI.

The existing limits of USD 15 million for USD-INR contracts and USD 5 million for non USD-INR contracts (i.e. EUR-INR, GBP-INR and JPY-INR), all put together, per exchange, without having to establish underlying exposure, as laid down in SEBI circular CIR/MRD/DP/04/2015 dated April 08, 2015, shall remain unchanged. The hedging procedure for eligible market participants as laid down in SEBI circulars CIR/MRD/DP/20/2014 dated June 20, 2014 and CIR/MRD/DP/04/2015 dated April 08, 2015 shall also remain unchanged.

Eligible market participants shall also ensure that any synthetic positions (such as synthetic USD-INR derivatives contracts) created using USD-INR, EUR-INR, GBP-INR or JPY-INR exchange traded currency derivatives contracts and exchange traded cross-currency derivatives contracts is within the position limits prescribed in SEBI circulars CIR/MRD/DP/20/2014 dated June 20, 2014 and CIR/MRD/DP/30/2014 dated October 22, 2014 for the USD-INR, EUR-INR, GBP-INR or JPY-INR derivatives contracts.

Source: Circular - SEBI/HO/MRD/DP/CIR/P/2016/0000000038, dated: March 09, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1457523461184.pdf

➲ Modification of Client Codes post Execution of Trades on National and Regional Commodity Derivatives Exchanges

This circular is issued with an objective to streamline the pro-

visions of the facility of client code modification at commodity derivatives exchanges in line with the securities market. It is also being re-emphasized here that this facility is expected to be used more as an exception rather than a routine.

The commodity derivatives exchanges shall comply with the provisions of the directions issued by SEBI vide its circulars CIR/DNPD/6/2011 dated July 05, 2011 and CIR/MRD/DP/29/2014 dated October 21, 2014. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1459251042803.pdf

Source: Circular - SEBI/HO/CDMRD/DMP/CIR/P/2016/43, dated: March 29, 2016

Circular on Mutual Funds

A. Treatment of unclaimed redemption and dividend amounts:

In partial modification of the aforementioned circular, it has been decided that:

1. The unclaimed redemption and dividend amounts, that are currently allowed to be deployed only in call money market or money market instruments, shall also be allowed to be invested in a separate plan of Liquid scheme / Money Market Mutual Fund scheme floated by Mutual Funds specifically for deployment of the unclaimed amounts. AMCs shall not be permitted to charge any exit load in this plan and TER (Total Expense Ratio) of such plan shall be capped at 50 bps.

2. To ensure Mutual Funds play a pro-active role in tracing the rightful owner of the unclaimed amounts:

a. Mutual Funds shall be required to provide on their website, the list of names and addresses of investors in whose folios there are unclaimed amounts.

b. AMFI shall also provide on its website, the consolidated list of investors across Mutual Fund industry, in whose folios there are unclaimed amounts. The information provided herein shall contain name of investor, address of investor and name of Mutual Fund/s with whom unclaimed amount lies.

c. Information at point A2(a) & A2(b) above may be obtained by investor only upon providing his proper credentials (like PAN, date of birth, etc.) along-with adequate security control measures being put in place by Mutual Fund / AMFI.

d. The website of Mutual Funds and AMFI shall also provide information on the process of claiming the unclaimed amount and the necessary forms / documents required for the same.

e. Further, the information on unclaimed amount along-with its prevailing value (based on income earned on deployment of such unclaimed amount), shall be separately disclosed to investors through the periodic statement of accounts / Consolidated Account Statement sent to the investors.

3. Investors who claim the unclaimed amounts during a period of three years from the due date shall be paid initial unclaimed amount along-with the income earned on its deployment. Investors, who claim these amounts after 3 years, shall be paid initial unclaimed amount along-with the income earned on its deployment till the end of the third year. After the third year, the income earned on such unclaimed amounts shall be used for the purpose of investor education.

B. Distribution of Mutual Fund products:

It has been decided that simple and performing Mutual Fund schemes shall also comprise of Retirement benefit schemes having tax benefits and Liquid schemes/ Money Market Mutual Fund schemes.

Source: Circular - SEBI/HO/IMD/DF2/CIR/P/2016/37, dated: February 25, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1456400389824.pdf

Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 (IFSC Guidelines) - Inclusion of Commodity Derivatives

SEBI (International Financial Services Centres) Guidelines, 2015 were issued on March 27, 2015. Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification S.O. 2362 (E) dated August 28, 2015, all recognized associations (commodity derivatives exchanges) under the Forward Contracts (Regulation) Act, 1952 ('FCRA') are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 ('SCRA').

Section 133 of the Finance Act, 2015 had amended Securities Contracts (Regulation) Act, 1956 to include "Commodity Derivatives" as securities. Further, the sub-clause (vi) of Clause 7 of IFSC Guidelines, 2015 provides that "Such other securities as may be specified by the Board". Accordingly, it is hereby specified that the "Commodity Derivatives" shall be eligible as securities for trading and the stock exchanges operating in IFSC may permit dealing in Commodity Derivatives.

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1458199534216.pdf

Source: Circular - CIR/MRD/DSA/41/2016, dated: March 17, 2016

➲ **Investments by FPIs in REITs, InvIts, AIFs and corporate bonds under default**

A. REITs, InvIts and AIFs:

1. RBI had vide notification No. FEMA.355/2015-RB dated November 16, 2015 carried out necessary amendments in Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Eleventh Amendment) Regulations, 2015 for permitting investment by FPIs in the units of REITs, InvIts and AIFs.
2. Accordingly, it has been decided to permit FPIs to invest in units of REITs, InvIts and Category III AIFs in terms of Regulation 21 (1) (n) of SEBI (FPI) Regulations, 2014 subject to such other terms and conditions as may be prescribed by SEBI from time to time.
3. A FPI shall not hold more than twenty five percent stake in a category III AIF.

B. Corporate Bonds under default:

4. RBI, vide circular RBI/2015-16/253 dated November 26, 2015 has permitted FPIs to acquire NCDs/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal installment in the case of amortizing bond.
5. In partial modification of Para 2 of the SEBI circular CIR/IMD/FIIC/1/2015 dated February 03, 2015, FPIs shall be permitted to acquire NCDs/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal installment in the case of an amortizing bond. FPIs shall be guided by RBI's definition of an amortizing bond in this regard.
6. Such NCDs/bonds restructured based on negotiations with the issuing Indian company, shall have a minimum revised maturity period of three years.
7. The FPIs shall disclose to the Debenture Trustees, the terms of their offer to the existing debenture holders/beneficial owners of such NCDs/bonds under default, from whom they propose to acquire.
8. All investments by FPIs in such bonds shall be reckoned against the extant corporate debt limit of INR 244,323 cr. All other terms and conditions pertaining to FPI investments in corporate debt securities shall continue to apply.

Source: Circular - CIR/IMD/FPIC/39/2016, dated: March 15, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1458041859179.pdf

FOREIGN TRADE

Notifications / Circulars

➲ **Status Holder-Amendment in Para 3.20(b) of Foreign Trade Policy 2015-2016**

Central Government hereby makes the following amendments in the Foreign Trade Policy (FTP) 2015- 2020 with immediate effect:

Existing Paragraph 3.20(b) of FTP 2015-20:

All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance. An applicant shall be categorized as status holder upon achieving export performance during current and previous two financial years, as indicated in paragraph 3.21 of Foreign Trade Policy. The export performance will be counted on the basis of FOB value of export earnings in free foreign exchange.

Amended Paragraph 3.20(b) of FTP 2015-20:

All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition will depend on export performance. An applicant shall be categorized as status holder on achieving export performance during the current and previous three financial years (for Gems& Jewellery Sector the performance during the current and previous two financial years shall be considered for recognition as status holder) as indicated in paragraph 3.21 of Foreign Trade Policy. The export performance will be counted on the basis of FOB of export earning in free foreign exchange.

Effect of this Notification:

The criteria for recognition as status holder has been changed w.e.f 01.04.2016 to the exports in the current and previous three financial years from the existing criteria of current and previous two financial years. For the Gems and Jewellery Sectors the existing criteria of export performance in the current and previous two years shall continue.

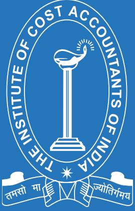
Source: Notification No.04/2015-2020, dated: 29th April, 2016

Read more at: http://dgft.gov.in/Exim/2000/NOT/NOT16/noti0416.pdf

➲ **Requirement of Certification regarding export of Betel Leaves**

Export of Betel Leaves to European Union is subject to registration with APEDA vide Notification No. 01/2015-2020 dated: 8.4.2016.

Read more at: http://dgft.gov.in/Exim/2000/NOT/NOT16/noti0116.pdf



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