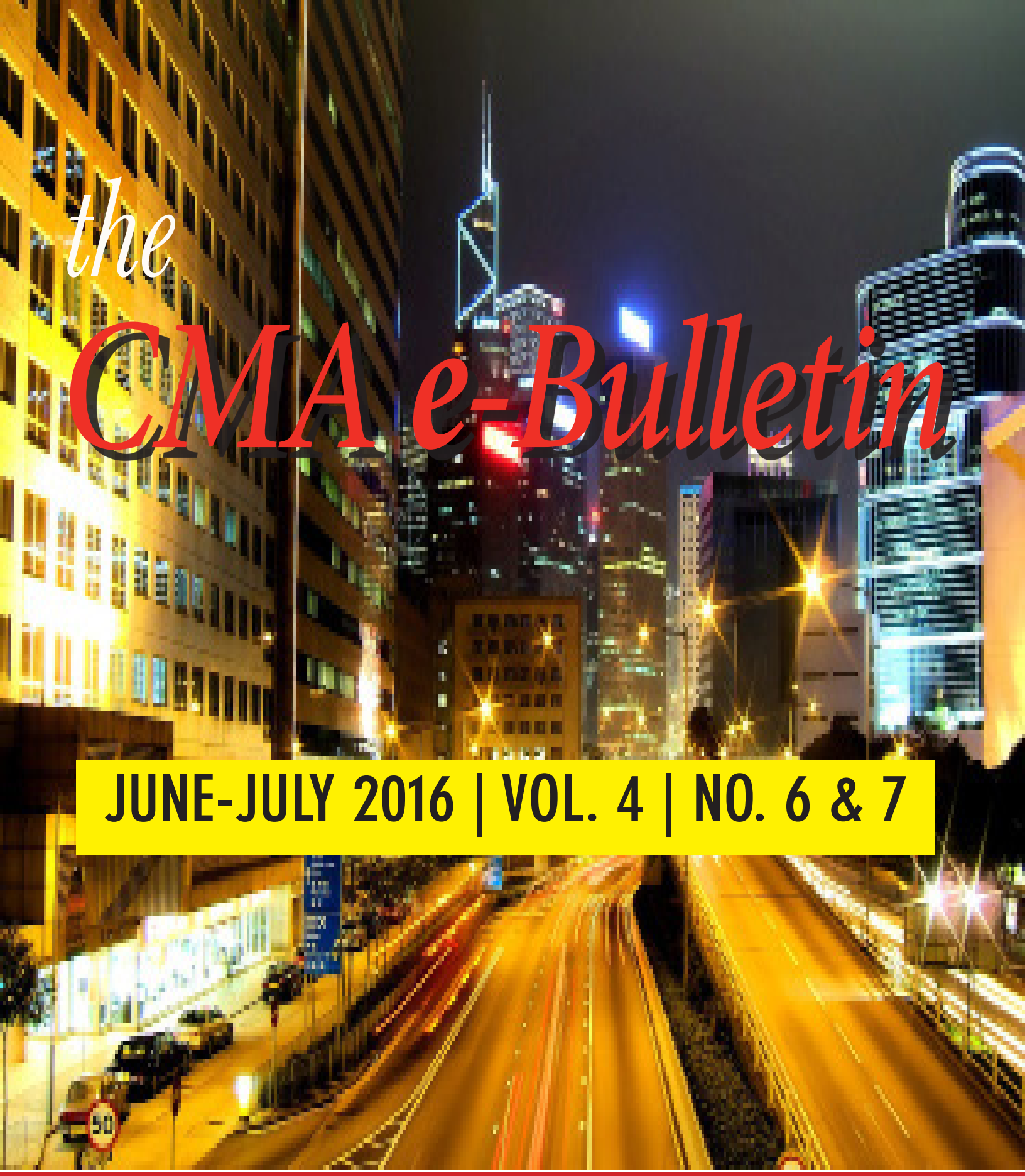

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The Institute of Cost Accountants of India

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INDIAN ECONOMY

News

➲ **Forex reserves touch a life-time high of $ 363.8 billion**

Foreign exchange reserves hit a life-time high of $ 363.8 billion after it rose $ 592.1 million in the week ended June 17, the Reserve Bank said. In the previous week, the reserves had declined $ 231 million to $ 363.2 billion. It had touched a record of $ 363.5 billion in the week through June 3, 2016.

The surge in reserves was on account of jump in foreign currency assets (FCAs), a major component of the overall reserves. FCAs rose by $ 594.3 million to $ 339.6 billion in the reporting week, RBI data showed.
Read more at: http://economictimes.indiatimes.com/news/economy/finance/forex-reserves-touch-a-life-time-high-of-363-8-billion/articleshow/52903067.cms

➲ **FDI inflows in 2016-17 to be higher than 15.3% in 2015-16: Economic Affairs Secretary Shaktikanta Das**

FDI inflows in the current fiscal will top 15.3 per cent rise in 2015-16 on the back of reforms and liberalisation of FDI norms, Economic Affairs Secretary Shaktikanta Das said. Stating that the current account deficit (CAD) at 1.1 per cent of GDP is a "robust macro economic indicator", Das said efforts will continue on the reforms front.

"Net FDI inflow rose by 15.3 per cent in 2015-16 over the previous year. Should be more this year due to full-year impact of FDI liberalisation in November 2015," Das tweeted.

For the full year, CAD stood at $22.1 billion (1.1 per cent of GDP) as against $26.9 billion (1.8 per cent) in 2014-15. Net FDI inflows during 2015-16 stood at $36 billion, up sharply by 15.3 per cent over 2014-15, according to RBI data. In November, the government had unveiled sweeping liberalisation of foreign investment norms by relaxing FDI rules in 15 sectors, including civil aviation, banking, defence, retail and news broadcasting, and eased the process for FDI approval.

Read more at: http://economictimes.indiatimes.com/news/economy/finance/fdi-inflows-in-2016-17-to-be-higher-than-15-3-in-2015-16-economic-affairs-secretary-shaktikanta-das/articleshow/52783662.cms

➲ **Service exports flat at USD 12.9 billion in April, imports USD 7.2 billion**

India's services export remained almost flat at USD 12.91 billion in April 2016, the Reserve Bank data showed. The services export in April 2015 was at USD 13.01 billion. While in March this year, the services export stood at USD 12.89 billion.

Similarly, services import by India was also steady at USD 7.18 billion in April as against USD 7.32 billion in the year-ago month. Services import in April this year, however, remained lower than March 2016 when it stood at USD 7.91 billion.

Read more at: http://economictimes.indiatimes.com/news/economy/finance/service-exports-flat-at-usd-12-9-billion-in-april-imports-usd-7-2-billion/articleshow/52766248.cms

➲ **Indirect tax collection soars 37% in April-May**

Indirect tax collections rose by about 37 per cent during April-May compared to the same period of the last fiscal.

"The indirect tax growth rate for the first two months of current FY is 36.7 per cent with additional revenue measures (ARM) and 14 per cent without ARM," Revenue Secretary Hasmukh Adhia tweeted. Indirect tax revenue include collections from excise, customs and service tax.

Read more at: http://economictimes.indiatimes.com/news/economy/finance/indirect-tax-collection-soars-37-in-april-may/articleshow/52677217.cms

➲ **GDP growth figures impressive but concerns around new methodology continue**

GDP growth accelerated sharply to almost 8% in the Jan-March quarter, significantly beating expectations. As a consequence, full-year growth in FY16 (year ending March 2016) accelerated to 7.6% from 7.2% the year before. This is particularly impressive given the economic context at hand.

Global growth slowed from 3.4% in 2014 to 3.1% in 2015. On an aggregate basis, this may not come across as a sharp slowdown, but the impact on Indian exports was greater because an increasingly large fraction of our exports now go to other emerging markets, whose growth slowed more sharply from 4.6% in 2014 to 4% in 2015.

Read more at: http://economictimes.indiatimes.com/news/economy/finance/gdp-growth-figures-impressive-but-concerns-around-new-methodology-continue/articleshow/52546215.cms

➲ **Indian economy to grow 7.7% in this fiscal: Survey**

Indian economy will grow 7.7 per cent in the ongoing fiscal amid likely improvement in the industrial and agricultural sectors' performance on account of good monsoon, though the investment cycle is expected to take at least 6 months to witness a

pick-up, says a survey. "The growth in 2016-17 is expected to be supported by an improvement in the agricultural and industrial sector performance. Prediction of a good monsoon after two consecutive years of sub-optimal rainfall backs the improved outlook in the current fiscal," according to the the Federation of Indian Chambers of Commerce and Industry's Economic Outlook Survey that puts across a median GDP growth forecast of 7.7 per cent for FY 2016-17.

The Reserve Bank last month had forecast a 7.6 per cent growth for the current fiscal on the back of favourable monsoon, a notch lower than the upper end of government's range of 7 per cent to 7.75 per cent.

Moreover, the agriculture sector is expected to record a median growth of 2.8 per cent in 2016-17, with a minimum and maximum range of 1.6 per cent and 3.5 per cent, respectively. Industrial growth is expected to grow by 7.1 per cent in 2016-17, while services sector growth is estimated at 9.6 per cent.

Read more at: http://timesofindia.indiatimes.com/business/india-business/Indian-economy-to-grow-7-7-in-this-fiscal-Survey/articleshow/52505981.cms

➲ **Wholesale inflation up for 2nd month; rises to 0.79% in May**

Wholesale inflation accelerated for the second straight month in May because of pricier food articles, explaining a spike in retail inflation that has dented the chances of a rate cut this year.

The Wholesale Price Index rose 0.79% in May, higher than the previous month's 0.34%, data from the commerce and industry ministry showed. Food inflation jumped to 7.88%, led by potatoes and pulses which became dearer by 60.01% and 35.56%, respectively.

The wholesale data came a day after the statistics department said India's retail inflation inched up to a near two-year high of 5.76% in May, fuelled by surging prices of pulses, sugar and vegetables.

Read more at: http://economictimes.indiatimes.com/news/economy/indicators/wholesale-inflation-up-for-2nd-month-rises-to-0-79-in-may/articleshow/52742953.cms

➲ **Higher food prices drive retail inflation to 5.76% in May**

India's retail inflation inched up to a near two-year high of 5.76% in May, fuelled by surging prices of pulses, sugar and vegetables, further thinning prospects of a rate cut by the central bank in its August policy review.

Retail inflation, as measured by the Consumer Price Index (CPI), was 5.47% in April, after being revised from the earlier reported 5.39%. Food inflation accelerated to 7.55% in May from 6.40% the month before. Retail inflation for both months was higher than the 5% target set by the Reserve Bank of India for 2016-17.

Read more at: http://economictimes.indiatimes.com/news/economy/indicators/higher-food-prices-drive-retail-inflation-to-5-76-in-may/articleshow/52731338.cms

➲ **Service exports flat at USD 12.9 billion in April, imports USD 7.2 billion**

India's services export remained almost flat at USD 12.91 billion in April 2016, the Reserve Bank data showed. The services export in April 2015 was at USD 13.01 billion. While in March this year, the services export stood at USD 12.89 billion. Similarly, services import by India was also steady at USD 7.18 billion in April as against USD 7.32 billion in the year-ago month. Services import in April this year, however, remained lower than March 2016 when it stood at USD 7.91 billion.

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➲ **India extends 25% tax on wheat imports, says Food Minister Ram Vilas Paswan**

Government decided to further extend 25 per cent import duty on wheat to curb inward shipments as domestic output is estimated to have gone up by nine per cent despite drought. As per the Agriculture Ministry's third advance estimate, wheat output has risen to 94.05 million tonnes in the 2015-16 crop year (July-June) from 86.53 million tonnes in the previous year.

"25 per cent import duty on wheat has been continued further," Food Minister Ram Vilas Paswan said in a tweet.

Read more at: http://economictimes.indiatimes.com/news/economy/policy/india-extends-25-tax-on-wheat-imports-says-food-minister-ram-vilas-paswan/articleshow/52794879.cms

➲ **Vegetable oil imports up by 10%, say oil extractors**

Import of vegetable oils in the seven months to May 2016 increased by 10% from the year-ago period, according to data compiled by the Solvent Extractors' Association of India. Between November 2015 and May this year—the first seven months of the current oil year—the country imported 85.94 lakh tonnes of the commodity compared with 78.34 lakh tonnes in the year-ago period.

Read more at: http://economictimes.indiatimes.com/news/economy/foreign-trade/vegetable-oil-imports-up-by-10-say-oil-extractors/articleshow/52743246.cms

➲ **India's end-March external debt rises to $485.6 billion from year ago**

India's end-March external debt was at $485.6 billion, up $10.6 billion from end-March 2015, the Reserve Bank of India said in a released. The figure was up $5.4 billion from the $480.2 billion registered at end-December 2015.

The increase in external debt was mainly due to a rise in non-resident Indian deposits, but was partly offset by valuation gains resulting from the appreciation of the dollar versus the rupee and other major currencies.

The share of short-term debt residual maturity to India's forex reserves stood at 42.6 percent of the total external debt at end-March, compared with 38.2 percent at end-March 2015, the RBI said.

Read more at: http://in.reuters.com/article/india-external-debt-idINKCN0ZG1M4

➲ **Fiscal deficit reaches nearly 43% of budgeted target in May**

Fiscal deficit in the first two months of the current fiscal was Rs 2.28 lakh crore or 42.9 per cent of Budget estimates for 2016-17, much higher than the year-ago period.

The fiscal deficit situation during April-May of the last fiscal was 37.5 per cent of the Budget estimates. The gap between expenditure and revenue for the entire current fiscal has been pegged at Rs 5.33 lakh crore.

Read more at: http://economictimes.indiatimes.com/news/economy/finance/fiscal-deficit-reaches-nearly-43-of-budgeted-target-in-may/articleshow/52990874.cms

BANKING

Notifications / Circulars

➲ **Transactions in derivatives by regulated institutional entities on electronic platforms**

A reference is invited to para 37 of the First Bi-monthly Monetary Policy Statement announced on April 5, 2016, in terms of which, it was proposed to review the existing guidelines on OTC derivatives in order to make participation in OTC derivative markets through electronic platforms more broad-based. Accordingly, it has been decided to enable any institutional entity regulated by the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI), the Insurance Regulatory and Development Authority of India (IRDAI), the Pension Fund Regulatory and Development Authority (PFRDA) and the National Housing Bank (NHB) to trade in interest rate swaps (IRS) on electronic trading platforms.

At present regulated entities, other than scheduled banks, are unable to conduct transactions on electronic platforms for interest rate swaps (IRS) as one party to such transactions has to be either the Reserve Bank of India (RBI) or a scheduled bank or such other agency falling under the regulatory purview of the RBI which may be specified by the RBI in this regard.

In this context, the Reserve Bank of India, in exercise of its powers conferred by Section 45V of the Reserve Bank of India Act, 1934 and of all the powers enabling it in this behalf, hereby specifies the Clearing Corporation of India Ltd (CCIL) as an approved counterparty for IRS transactions undertaken on electronic trading platforms where CCIL is the central counterparty.

In view of the above measures, the regulated institutional entities, subject to the approval of their respective sectoral regulators, may apply for membership of electronic trading platforms in IRS which have CCIL as the central counterparty for settlement.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10384&Mode=0

Source: Notification No. RBI/2015-16/392 [FMRD.DIRD. No.9/14.03.01/2015-16] dated: May 5, 2016

➲ **Currency Distribution & Exchange Scheme (CDES) for bank branches based on performance in rendering customer service to the members of public**

Circular DCM (CC) No.4846/03.41.01/2014-15 dated May 21, 2015 states "The Scheme of Incentives & Penalties – Review". The scheme of Incentives & Penalties has since been reviewed.

On review, it has been decided to segregate the scheme of incentives from penalties as also to revise certain incentives. Accordingly, the new scheme titled "Currency Distribution & Exchange Scheme (CDES)" containing revised incentives is framed and the same is being annexed for information and necessary action. In terms of the above scheme, the performance based incentives will continue to be paid as hitherto w.e.f July 01, 2015; however, the incentives for installation of machines have been restricted to Cash Recyclers & ATMs dispensing lower denomination notes, subject to certain caps on reimbursement of cost per machine and will be effective from the date of the circular.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10385&Mode=0

Source: Notification No. RBI/2015-16/393 [DCM (CC) No.G-10/3352/03.41.01/2015-16] dated: May 05, 2016

➲ **Scheme for Sustainable Structuring of Stressed Assets**

In order to strengthen the lenders' ability to deal with stressed assets, Reserve Bank of India has been issuing, from time to time, guidelines and prudential norms on stressed assets resolution by regulated lenders. Resolution of large borrowal accounts which are facing severe financial difficulties may, inter-alia, require co-ordinated deep financial restructuring which often involves a substantial writedown of debt and/or making large provisions. Citing the case of the Strategic Debt Restructuring (SDR) mechanism which provides 18 months for banks to make prescribed provisions for the residual debt and mark-to-market (MTM) provisions on their equity holding arising from conversion of debt, banks have represented for allowing more time to write down the debt and make the required provisions in cases of resolution of large accounts.
In order to ensure that adequate deep financial restructuring is done to give projects a chance of sustained revival, the Reserve Bank, after due consultation with banks, has decided to facilitate the resolution of large accounts, which satisfy the conditions set out in the following paragraphs.

Eligible Accounts: For being eligible under the scheme, the account1 should meet all the following conditions:

(i) The project has commenced commercial operations;
(ii) The aggregate exposure (including accrued interest) of all institutional lenders in the account is more than Rs.500 crore (including Rupee loans, Foreign Currency loans/External Commercial Borrowings,).

Read full notification at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10446&Mode=0

Source: Notification No. RBI/2015-16/422 [DBR.No.BP.BC.103/21.04.132/2015-16] dated: June 13, 2016

➲ **Credit Information Reporting in respect of Self Help Group (SHG) members**

RBI has decided to incorporate the SHG member level data into the existing Microfinance data sharing file format issued vide our circular DBOD.No.CID.BC.127/20.16.056/2013-14 dated June 27, 2014.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10449&Mode=0

Source: Notification No. RBI/2015-16/424 [DBR.CID.BC.No.104/20.16.56/2015-16] dated: June 16, 2016

➲ **Money Transfer Service Scheme - Submission of statement/ returns under XBRL**

Attention of Authorised Persons, who are Indian Agents under Money Transfer Service Scheme (MTSS) is invited to the A.P. (DIR Series) Circular No. 89 dated March 12, 2013 in terms of which all Authorised Persons, who are Indian Agents under Money Transfer Service Scheme were required to submit quarterly statement of the quantum of remittances received in the prescribed format. All Authorised Persons, who are Indian Agents under Money Transfer Service Scheme (MTSS) are now advised to report the above mentioned statement in eXtensible Business Reporting Language (XBRL) system from the quarter ending June 2016.

The reporting platform may be accessed at https://secweb.rbi.org.in/orfsxbrl/. For User name and password, Authorised Persons, who are Indian Agents under Money Transfer Service Scheme (MTSS), are advised to submit the duly filled in form through email on or before May 30, 2016. FED Master Direction No. 18/2015-16 dated January 1, 2016 is being updated to reflect the changes.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10405&Mode=0

Source: Notification No. RBI/2015-16/401, A.P. (DIR Series) Circular No.70, dated: May 19, 2016

➲ **Rupee Drawing Arrangement - Submission of statement/ returns under XBRL**

Attention of Authorised Dealer Category – I (AD Cat – I) banks is invited to the A.P. (DIR Series) Circular No. 28 [A. P. (FL/RL Series) Circular No. 02] dated February 6, 2008 and the A. P. (DIR Series) Circular No. 7 dated July 18, 2014 in terms of which AD Cat- I banks were required to submit statement E on total remittances received every quarter.

Authorised Dealer Category – I (AD Cat – I) banks are now advised to report the above mentioned statement in eXtensible Business Reporting Language (XBRL) system from the quarter ending June 2016.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10406&Mode=0

Source: Notification No. RBI/2015-16/402, A.P. (DIR Series) Circular No.71, dated: May 19, 2016

➲ **Frauds in UCBs: Changes in Monitoring and Reporting mechanism**

RBI has decided to change the fraud monitoring and reporting mechanism at the Regional Offices and Central Fraud Monitoring Cell (CFMC) of the RBI. Accordingly, henceforth:

i. Frauds below Rs.1.00 crore will be monitored by the respective

Regional Office of the Department of Co-operative Bank Supervision (DCBS), RBI under whose jurisdiction the Head Office of the bank falls and;
ii. Frauds of Rs. 1.00 crore and above will be monitored by CFMC, RBI, Bengaluru.

Reporting of frauds by UCBs:

Consequently, the reporting mechanism for fraud cases will be as under:

- Frauds below Rs. 1.00 lakh are not to be reported individually to the RBI. However, as done earlier, statistical data in respect of such frauds should be submitted to RBI in the prescribed quarterly statement.
- Individual frauds of Rs. 1.00 lakh and above but below Rs. 1.00 crore should be reported to the Regional Office of Department of Cooperative Bank Supervision (DCBS) of RBI, under whose jurisdiction the Head Office of the bank falls, in FMR-1 format, within three weeks from the date of detection.
- Individual frauds of Rs. 1.00 crore and above should be reported to Central Frauds Monitoring Cell (CFMC), Department of Banking Supervision (DBS), RBI, Bengaluru, in FMR-1 format, within three weeks from the date of detection with a copy to Regional Office of DCBS, RBI under whose jurisdiction the Head Office of the bank falls.
- Additionally, in case of frauds of Rs. 1.00 crore and above, a flash report in the form of DO letter addressed to Principal Chief General Manager, DBS, CO, RBI has to be submitted within a week of such fraud coming to the notice of the bank's Head Office with a copy to Regional Office of DCBS, RBI under whose jurisdiction the Head Office of the bank falls.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10408&Mode=0

Source: Notification No. RBI/2015-16/399 [DCBS.CO.Cir. No.001/12.17.001/2015-16] dated: May 19, 2016

➲ Investment in Credit Information Companies

In exercise of the powers conferred by sub-section (1) of Section 11 of Credit Information Companies (Regulation) Act, 2005, and in supersession of its direction on Investment in Credit Information Companies (CICs) dated November 29, 2013, Reserve Bank of India, being satisfied that it is necessary and expedient in the public interest to do so, hereby directs that investments directly or indirectly by any person, whether resident or otherwise, in a CIC, shall not exceed ten percent of the equity capital of the investee company.

Notwithstanding the above, the Reserve Bank may consider allowing higher FDI limits as under to entities which have an established track record of running a Credit Information Bureau in a well regulated environment:

a. up to 49% if their ownership is not well diversified (i.e., one or more shareholders each hold more than 10% of voting rights in the company);
b. up to 100% if their ownership is well diversified;

or

If their ownership is not well diversified, at least 50% of the directors of the investee CIC in India are Indian nationals/ Non-Resident Indians/ Persons of Indian Origin subject to the condition that one third of the directors are Indian nationals resident in India.
c. The investor company should preferably be a listed company on a recognized stock exchange.

FII/FPI investment would be permitted subject to the conditions that:
a. A single entity should directly or indirectly hold below 10% equity;
b. Any acquisition in excess of 1% will have to be reported to RBI as a mandatory requirement;
c. FIIs/FPIs investing in CICs shall not seek a representation on the Board of Directors based upon their shareholding.

In case the investor in a Credit Information Company in India is a wholly owned subsidiary (directly or indirectly) of an investment holding company, the conditions as at (2) and (3) above will be applied to the operating group company that is engaged in credit information business and has undertaken to provide technical know-how to the Credit Information Company in India.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10410&Mode=0

Source: Notification No. RBI/2015-16/400 [DBR.CID. BC.No.98/20.16.042/2015-16] dated: May 19, 2016

➲ Repo / Reverse Repo Transactions with RBI

In reference to circular IDMD/4135/11.08.43/2009-10 dated March 23, 2010 on accounting of repo/reverse repo transactions under market repo. As mentioned therein, these accounting norms were not applicable to repo / reverse repo transactions conducted under the Liquidity Adjustment Facility (LAF) with RBI.

It has now been decided to: (a) align the accounting norms to be followed by market participants for repo/reverse repo transactions under LAF and the Marginal Standing Facility (MSF) of RBI with the accounting guidelines prescribed for market repo transactions. Accordingly, the accounting norms prescribed in terms of the above circular will apply, mutatis mutandis, to repo/ reverse repo transactions undertaken under LAF/MSF. In order to distinguish repo/reverse repo transactions with RBI from market repo transactions, a parallel set of accounts similar to those maintained for market repo transactions but prefixed with 'RBI' may be maintained;

(b) reckon the market value of collateral securities for calculating the haircut instead of face value while initiating the LAF/MSF transactions;
(c) bestow SLR status to the securities acquired by banks under reverse repo with RBI; and
(d) allow re-repo of securities received under LAF reverse repo with market participants subject to the conditions prescribed in RBI circular FMRD.DIRD.5/14.03.002/2014-15 dated February 5, 2015.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10411&Mode=0

Source: Notification No. RBI/2015-2016/403 [FMRD.DIRD. 10 /14.03.002/2015-16], dated: May 19, 2016

➲ **Establishment of Branch Office (BO)/ Liaison Office (LO)/ Project Office (PO) in India by foreign entities - procedural guidelines**

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to Notification No. FEMA 22(R) /2016-RB dated March 31, 2016 viz. Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016. The salient provisions of the procedure for a person resident outside India to open a branch office or a liaison office or a project office are outlined as under.

Eligibility criteria:

i. Applications from persons resident outside India for establishing Branch Office (BO) / Liaison Office (LO)/ Project Office (PO) or any other place of business in India shall be considered by the AD Category-I bank as per the guidelines issued by the Reserve Bank of India. If the application to open a BO/LO/PO is received from an entity resident outside India whose principal business falls under sectors where 100 percent Foreign Direct Investment (FDI) is allowed in terms of FEMA Notification No. 20/2000-RB dated May 3, 2000, as amended from time to time, the AD Category-I bank may consider such applications under the delegated powers.

ii. An application from a person resident outside India for opening of a BO/LO/PO in India shall require prior approval of Reserve Bank of India in the following cases:
a. the applicant is a citizen of or is registered/incorporated in Pakistan;
b. the applicant is a citizen of or is registered/incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau and the application is for opening a BO/LO/PO in Jammu and Kashmir, North East region and Andaman and Nicobar Islands;
c. The principal business of the applicant falls in the four sectors namely Defence, Telecom, Private Security and Information and Broadcasting. In the case of proposal for opening a PO relating to defence sector, no separate reference or approval of Government of India shall be required if the said non-resident applicant has been awarded a contract by/ entered into an agreement with Ministry of Defence or Service Headquarters or Defence Public Sector Undertakings. There shall be no requirement of any approval from RBI also only for such cases;
d. The applicant is a Non-Government Organization (NGO), a Non-Profit Organization, or a Body/ Agency/ Department of a foreign government. Such applications may be forwarded by the AD Category-I bank to the General Manager, Reserve Bank of India, Central Office Cell, Foreign Exchange Department, 6, Sansad Marg, New Delhi-110 001 who shall process the applications in consultation with the Government of India.

iii. The non-resident entity desirous of establishing a BO/LO in India should have a financially sound track record as provided in Regulation 4 (a) of the Notification.
iv. An applicant that is not financially sound and is a subsidiary of another company may submit a Letter of Comfort (LOC) [as provided in Regulation 4. a. of the Notification] from its parent/ group company, subject to the condition that the parent/ group company satisfies the prescribed criteria for net worth and profit. The LOC should be issued by the applicant's parent / group company which undertakes to fund the operations if required.

Procedure for applying:

The application for establishing BO / LO/ PO in India may be submitted by the non-resident entity in Form FNC [as provided in Regulation 4.c. of the Notification], to a designated AD Category - I bank (i.e. an AD Category – I bank identified by the applicant with whom they intend to pursue banking relations) along with the prescribed documents mentioned in the Form and the LOC, wherever applicable. The AD Category-I bank shall, after exercising due diligence in respect of the applicant's background, and satisfying itself as regards adherence to the eligibility criteria for establishing BO/LO/PO, antecedents of the promoter, nature and location of activity of the applicant, sources of funds, etc., and compliance with the extant KYC norms, grant approval to the foreign entity for establishing BO/LO/PO in India. The AD Category-I banks may frame appropriate policy for dealing with these applications in conformity with the FEMA Regulations and Directions.

Issuance of UIN by Reserve Bank of India:

For the limited purpose of uploading and maintenance of up-to-date list of all foreign entities which have been granted permission for establishing BO/LO in India on Reserve Bank's website, the AD Category-I bank shall before issuing the approval letter to the applicant forward a copy of the Form FNC along with the details of the approval proposed to be granted by it to the General Manager,

Reserve Bank of India, CO Cell, New Delhi, for allotment of Unique Identification Number (UIN) to each BO/LO. After receipt of the UIN from the Reserve Bank, the AD Category-I bank shall issue the approval letter to the non-resident entity for establishing BO/LO in India.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10398&Mode=0

Source: Notification No. RBI/2015-16/397, A.P. (DIR Series) Circular No.69 [(1)/22(R)], dated: May 12, 2016

➲ **Discontinuation of Statements on Special Agriculture Credit Plan (SACP)**

In order to monitor and augment the flow of credit to Agriculture, Special Agriculture Credit Plans (SACP) were introduced for Public Sector banks in 1994 and extended to Private Sector Banks in 2004. Under SACP, the banks are required to fix self-set targets for achievement during the year (April-March), with an increase of about 25% over the disbursement made in the previous year. The banks were required to forward half yearly statements to RBI (FIDD) indicating their progress of implementation as at the end of March and September every year.

As we are receiving the relevant data through Priority Sector Returns, it has been decided to discontinue the submission of the above statements from April 2016. Accordingly, banks are advised not to furnish half yearly statements as above for the year 2016-17 to FIDD, Reserve Bank of India. However, the credit disbursement statements for the half year ended March 2016 may be forwarded to the Bank.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10383&Mode=0

Source: Notification No. RBI/2015-16/391, [FIDD. No. FSD. BC.24/05.05.014/2015-16], dated: May 5, 2016

➲ **ATMs - Security and Risk Mitigation Measures for Card Present (CP) Transactions**

In reference to circular RBI/2014-15/589 DPSS(CO) PD.CO. No.2112 / 02.14.003 / 2014-2015 dated May 07,2015 and RBI/2015-16/163 DPSS CO.PD.No.448/02.14.003/2015-16 dated August 27, 2015 banks are advised regarding the timelines for migrating from magnetic stripe cards to issuance of EMV Chip and PIN based cards. While the POS terminal infrastructure in the country has been enabled to accept and process EMV Chip and PIN cards, the ATM infrastructure, on the whole, continues to process the card transactions based on data from the magnetic stripe. As a result, the ATM card transactions remain vulnerable to skimming, cloning, etc. frauds, even though the cards are EMV Chip and PIN based.

It has, therefore, become necessary to mandate EMV Chip and PIN card acceptance and processing at ATMs also. Contact Chip processing of EMV Chip and PIN cards at ATMs would not only enhance the safety and security of transactions at ATMs but also facilitate preparedness of the banks for the proposed "EMV Liability Shift" for ATM transactions, as and when it comes into effect.

Banks in India and the White Label ATM operators are, therefore, advised to ensure that all the existing ATMs installed/operated by them are enabled for processing of EMV Chip and PIN cards by September 30, 2017. All new ATMs shall necessarily be enabled for EMV Chip and PIN processing from inception. For the purpose of switching, clearing and settlement of their ATM transactions, banks with the approval of their Board, may join any authorised ATM/Card network provider. Further, in order to ensure uniformity in card payments ecosystem, banks shall also implement the above requirements at their micro-ATMs which are enabled to handle card-based payments.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10421&Mode=0

Source: Notification No. RBI/2015-2016/413, [DPSS.CO.PD. No./2895/02.10.002/2015-2016], dated: May 26, 2016

➲ **Memorandum of Procedure for channeling transactions through Asian Clearing Union (ACU)**

Attention of Authorised Dealer Category-I Banks is invited to the Memorandum containing detailed procedural instructions for channeling transactions through the Asian Clearing Union (ACU) (Memorandum ACM) issued on February 17, 2010, as amended from time to time. In terms of paragraph 11 of the Memorandum the minimum amounts and the multiples in which Reserve Bank receives and pays U.S. Dollar/ Euro is $ 25,000/ € 25,000 and $ 1,000/ € 1,000, respectively.

In view of the understanding reached amongst the members of the ACU during the 44rth Meeting of the ACU Board of Directors in June, 2015, it has been decided to revise the minimum amount and the multiples in which Reserve Bank will receive and pay for the purpose of funding or for repatriating the excess liquidity in the ACU Dollar and ACU Euro accounts to $ 500 / € 500.

Source: Notification No. RBI/2015-16/411, A.P. (DIR Series) Circular No.72, dated: May 26, 2016

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10419&Mode=0

➲ **Merchant Acquisition for Card transactions**

In order to encourage banks to expand card acceptance

infrastructure to a wider segment of merchants across all geographical locations and considering the experience gained by the banks in merchant acquiring business, banks are advised that they may put in place their own Board approved policy on merchant acquisition. The above instructions will come into effect from the date of issue of this circular.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10418&Mode=0

Source: Notification No. RBI/2015-2016/410 [DPSS.CO.PD. No./2894/02.14.003/2015-2016] dated: May 26, 2016

➲ **Credit information reporting in respect of Self Help Group (SHG) members**

A review of the implementation of the aforesaid directions by the Reserve Bank of India (RBI) revealed that banks had not made a significant progress in this regard. The banks also pointed out a number of challenges in implementation of these directions and requested for greater clarity on their scope. Consequently, the RBI constituted a working group with members from within RBI, NABARD, banks and Credit Information Companies (CICs), to study the implementation challenges and suggest measures to address them.

Underscoring the importance of credit information reporting in respect of the SHG members for financial inclusion, credit decision of banks and Micro Finance Institutions (MFIs) and credit quality of the SHG loan portfolios, the working group has emphasised the need for putting in place the credit information reporting for SHG members sooner than later. Nonetheless, the group has suggested following a phased approach to the implementation of the RBI direction so as to ensure that the data quality is not compromised.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10417&Mode=0

Source: Notification No. RBI/2015-16/409 [DCBR.BPD.Cir. No.17/16.74.000/2015-16] dated: May 26, 2016

➲ **Implementation of Indian Accounting Standards (Ind AS)**

In reference to circular DBR.BP.BC.No.76/21.07.001/2015-16 dated February 11, 2016 on the captioned subject in terms of which banks have been directed to be in preparedness to submit Proforma Ind AS Financial Statements to the Reserve Bank from the half-year ended September 30, 2016, onwards.

Banks shall submit Proforma Ind AS Financial Statements, for the half year ended September 30, 2016 latest by November 30, 2016 to the Principal Chief General Manager, Department of Banking Regulation, Central Office, Reserve Bank of India, Mumbai. Banks shall be guided by the Ind ASs notified by the Ministry of Corporate Affairs, Government of India under the Companies (Indian Accounting Standards) Rules, 2015 and Companies (Indian Accounting Standards) (Amendment) Rules, 2016, as amended from time to time, in this regard. [reference G.S.R.111(E) dated February 16, 2015 and G.S.R.365(E) dated March 30, 2016]. Banks shall also refer to the Report of the Working Group on "Implementation of Ind AS by Banks in India" placed on the RBI website on October 20, 2015.

The Proforma Ind AS Financial Statements shall include the following:-

(a) Balance Sheet including Statement of Changes in Equity
(b) Profit and Loss Account
(c) Notes

It is also clarified that banks shall continue to be guided by the extant instructions issued vide circular Ref. DBOD.No.BP. BC.78/C.686/91-92 dated February 6, 1992 (as amended from time to time) with respect to the preparation and presentation of financial statements for the financial years 2016-17 and 2017-18. To begin with, banks which are not in a position to submit both standalone and consolidated proforma Ind AS financial statements for the half year ended September 30, 2016 are permitted to submit only standalone financial statements. However, banks shall submit both proforma Ind AS standalone and consolidated financial statements in the subsequent periods. Banks shall disclose significant accounting policies including, inter alia, the following:\

(i) financial assets and financial liabilities, including use of fair value option in designating financial assets or financial liabilities at Fair Value Through Profit or Loss (FVTPL) upon initial recognition.
(ii) impairment of financial assets, with the following details:

- Methodology for computation of expected credit losses (ECL).
- Level of segmentation in the portfolio used.
- Criteria used for determination of movement from Stage 1 (12 month ECL) to Stage 2 and Stage 3 (lifetime ECL).
- The method used to compute lifetime ECL.
- The manner in which the forward looking information has been incorporated in the ECL estimates- the information provided should include both discussion of the judgment required and how it is applied in determining the allowance.
- The treatment for non-fund based facilities.
- The methodology for computation of ECL for revolving credit facilities.
- The areas where the bank intends to refine work on in this ECL estimate and the work plan / timeline to achieve it.

Source: Notification No. RBI/2015-16/429 [DBR.BP.BC. No.106/21.07.001/2015-16] dated: June 23, 2016

Read full Notification at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10456&Mode=0

FOREIGN TRADE

Notifications / Circulars

➲ **Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Amendment) Regulations, 2016**

In exercise of the powers conferred by Section 9 and clause (e) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015 [Notification No. FEMA 10(R)/2015-RB dated January 21, 2016], namely the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Amendment) Regulations, 2016.

Amendment to Regulation 5:
A. The existing sub-regulation (E) shall be re-numbered as (F).
B. In the re-numbered regulation (F), the existing sub-regulation (3) shall be substituted by the following namely:
"Insurance/reinsurance companies registered with Insurance Regulatory and Development Authority of India (IRDA) to carry out insurance/reinsurance business may open, hold and maintain a Foreign Currency Account with a bank outside India for the purpose of meeting the expenditure incidental to the insurance/reinsurance business carried on by them and for that purpose, credit to such account the insurance/reinsurance premia received by them outside India."

C. After the existing sub-regulation (D), the following shall be inserted namely:-

(E) Accounts in respect of Startups
An Indian startup or any other entity as may be notified by the Reserve Bank in consultation with the Central Government, having an overseas subsidiary, may open a foreign currency account with a bank outside India for the purpose of crediting to it foreign exchange earnings out of exports/ sales made by the said entity and/ or the receivables, arising out of exports/ sales, of its overseas subsidiary.

Provided that the balances in the account shall be repatriated to India within the period prescribed in Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 dated January 12, 2016, as amended from time to time, for realization of export proceeds.

Amendment to Schedule 1

In Paragraph 1, in sub-paragraph (1), after the existing clause (vi), the following shall be inserted namely:-

"vii) Payments received in foreign exchange by an Indian start-up, or any other entity as may be notified by the Reserve Bank in consultation with the Central Government, arising out of exports/ sales made by the said entity or its overseas subsidiaries, if any.

Source: Notification No. FEMA 10 (R)/(1)/2016-RB, dated: June 01, 2016

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10441&Mode=0

➲ **Foreign Exchange Management (Exports of Goods and Services) Regulations, 2015**

Attention of Authorised Dealers (ADs) is invited to A.D.(M.A. Series) Circular No. 11 dated May 16, 2000 in terms of which ADs were advised of various Rules, Regulations, Notifications/ Directions issued under the Foreign Exchange Management Act, 1999 (hereinafter referred to as the Act). On a review it is felt necessary to revise the regulations issued under the Foreign Exchange Management (Exports of Goods and Services) Regulations, 2000 as amended from time to time. Accordingly, in consultation with the Government of India, the said regulations have been repealed and superseded by the Foreign Exchange Management (Exports of Goods and Services) Regulations, 2015. The new regulations have been notified vide Notification No. FEMA. 23(R)/2015-RB dated January 12, 2016 c.f. G.S.R. No. 19 (E) dated January 12, 2016 and have come into force with effect from January 12, 2016. The Master Direction No. 16 of 2015-16 (Export of Goods and Services) has been updated accordingly to incorporate the above changes.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10393&Mode=0

Source: Notification No. RBI/2015-16/395, A.P. (DIR Series) Circular No.68 [(1)/23(R)] dated: May 12, 2016

➲ **Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2015**

In exercise of the powers conferred by Section 9 and clause (e) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in supersession of Notification No. FEMA 10/2000-RB dated May 3, 2000, as amended from time to time, the Reserve Bank of India makes the following regulations for opening, holding and maintaining of Foreign Currency Accounts and the limits up to which amounts can be held in such accounts by a person resident in India, namely the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015.

Restriction on holding foreign currency account by a person resident in India:-

Save as otherwise provided in the Act or rules or regulations made there under, no person resident in India shall open or hold or maintain a foreign currency account:
Provided that a Foreign Currency Account held or maintained before the commencement of these Regulations by a person resident in India with special or general permission of the Reserve Bank, shall be deemed to be held or maintained under these Regulatons:

Provided further that the Reserve Bank, may on an application made to it, permit a person resident in India to open or hold or maintain a Foreign Currency Account, subject to such terms and conditions as may be considered necessary.

Opening, holding and maintaining Foreign Currency Accounts in India:

(A) Exchange Earners' Foreign Currency Account:-
A person resident in India may open, hold and maintain with an authorised dealer in India, a Foreign Currency Account to be known as Exchange Earners' Foreign Currency (EEFC) Account, subject to the terms and conditions of the Exchange Earners' Foreign Currency Account Scheme specified in the Schedule I.

(B) Resident Foreign Currency Account:-
(1) A person resident in India may open, hold and maintain with an authorised dealer in India a Foreign Currency Account, to be known as a Resident Foreign Currency (RFC) Account, out of foreign exchange –

- received as pension or any other superannuation or other monetary benefits from his employer outside India; or
- realised on conversion of the assets referred to in sub-section (4) of section 6 of the Act, and repatriated to India; or
- received or acquired as gift or inheritance from a person referred to in sub-section (4) of section 6 of the Act; or
- referred to in clause (c) of section 9 of the Act, or acquired as gift or inheritance there from; or
- received as the proceeds of life insurance policy claims/ maturity/ surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority.

(2) The funds in a Resident Foreign Currency Account opened or held or maintained in terms of sub-regulation (1) shall be free from all restrictions regarding utilisation of foreign currency balances including any restriction on investment in any form, by whatever name called, outside India.
(3) Resident individuals are permitted to include resident relative(s) as joint holder(s) in their Resident Foreign Currency account on 'former or survivor' basis. However, such resident Indian relative joint account holder shall not be eligible to operate the account during the life time of the resident account holder.

Source: Notification No. FEMA 10 (R) /2015-RB, dated: January 21, 2016 (Amended up to June 01, 2016)

Read full notification at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10444&Mode=0

➲ **Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016**

In exercise of the powers conferred by Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in supersession of Notification No. FEMA.14/ 2000-RB dated May 3, 2000, as amended from time to time, dealing with Manner of Receipt and Payment, Notification No. FEMA.16/2000-RB dated May 3, 2000, as amended from time to time, dealing with Receipt from and Payment to a person Resident outside India and Notification No. FEMA. 17/ 2000-RB dated May 3, 2000, as amended from time to time, dealing with Transactions in Indian Rupees with Residents of Nepal and Bhutan, the Reserve Bank of India makes the following Regulations in respect of Manner of Receipt and Payment, namely the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016.

Manner of Receipt in Foreign Exchange: -

(1) Every receipt in foreign exchange by an authorized dealer, whether by way of remittance from a foreign country or by way of reimbursement from his branch or correspondent outside India against payment for export from India, or against any other payment, shall be as mentioned below:

(A) Members of the Asian Clearing Union:

(i) Bangladesh, Myanmar, Pakistan, Sri Lanka & Republic of Maldives -
a. Receipt for export of eligible goods and services by debit to the Asian Clearing Union Dollar account and / or Asian Clearing Union Euro account in India of a bank of the member country in which the other party to the transaction is resident or by credit to the Asian Clearing Union Dollar account and / or Asian Clearing Union Euro Account of the authorized dealer maintained with the correspondent bank in that member country ;
b. Receipt may also be made in any freely convertible currency in all other cases.
c. In respect of exports from India to Myanmar, payment may be received in any freely convertible currency or through ACU mechanism from Myanmar.

(ii) Nepal and Bhutan –
a. Receipt may be in Rupees

b. Receipts for export of goods to Nepal may be made in free foreign exchange,
provided the importer resident in Nepal has been permitted by the Nepal Rashtra Bank to make payment in free foreign exchange. However such receipts shall not be routed through the ACU mechanism.
(iii) Islamic Republic of Iran
a. Receipt for export of eligible goods and services, in any freely convertible currency and / or in accordance with the directions issued by the Reserve Bank to the authorized dealers from time to time.
b. Receipt in any freely convertible currency and / or in accordance with the directions issued by the Reserve Bank to the authorized dealers from time to time in all other cases.

(B) All countries other than those mentioned in A above:

(i) Receipt in rupees from the account of a bank situated in any country other than a member country of the Asian Clearing Union.
(ii) Receipt in any freely convertible currency.
(2) (a) In respect of an export from India, receipt shall be made in a currency appropriate to the place of final destination as mentioned in the declaration form irrespective of the country of residence of the buyer.
(b) Any other mode of receipt of export proceeds for an export from India in accordance with the directions issued by the Reserve Bank of India to authorized dealers from time to time.
(3) Authorised dealers have been permitted to allow receipts for export of goods/ software to be received from a Third party (a party other than the buyer) as per the guidelines issued by the Reserve Bank.

Manner of Receipts in certain cases: -

(1) Notwithstanding anything contained in Regulation 3, receipt for export may also be made by the exporter as under, namely:
i. in the form of a bank draft, cheque, pay order, foreign currency notes/ travelers cheque from a buyer during his visit to India, provided the foreign currency so received is surrendered within the specified period to the authorized dealer of which the exporter is a customer ;
ii. by debit to FCNR/ NRE account maintained by the buyer with an Authorised Dealer or an Authorised Bank in India;
iii. in rupees from the credit card servicing bank in India against the charge slip signed by the buyer where such payment is made by the buyer through a credit card;
iv. from a rupee account held in the name of an Exchange House with an authorized dealer if the amount does not exceed fifteen lakh rupees per export transaction or an amount prescribed by RBI, in consultation with Government of India in this regard;
v. In accordance with the directions issued by the Reserve Bank to Authorised Dealers, where the export is covered by the arrangement between the Central Government and the Government of a foreign country or by the credit arrangement entered into by the Exim Bank with a financial institution in a foreign state;
vi. in the form of precious metals i.e. gold/ silver/ platinum equivalent to value of jewellery exported by Gem & Jewellery units in Special Economic Zones and Export Oriented Units on the condition that the sale contract provides for the same and the value is declared in the relevant EDF.
(2) In addition to 4 (1) (i) & (iii) above, any person resident in India may also receive any payment for other than exports by means of postal order issued by a post office outside India or by a postal money order issued by such post office.'

Manner of payment in foreign exchange: -

(1) A payment in foreign exchange by an Authorised Dealer, whether by way of remittance from India or by way of reimbursement to his branch or correspondent outside India against payment for import into India, or against any other payment, shall be as mentioned below:

(A) Members of the Asian Clearing Union:

(i) Bangladesh, Myanmar, Pakistan, Sri Lanka & Republic of Maldives:

a. Payment for import of eligible goods and services by credit to Asian Clearing Dollar account and / or Asian Clearing Union Euro account in India of a bank of the member country in which the other party to the transaction is resident or by debit to the Asian Clearing Union Dollar account and / or Asian Clearing Union Euro account of the authorized dealer maintained with the correspondent bank in that member country ;
b. Payment may also be made in any freely convertible currency in all other cases.
c. In respect of imports to India from Myanmar, payment may be made in any freely convertible currency or through ACU mechanism from Myanmar.

(ii) Nepal and Bhutan:
Payment may be in Rupees

(iii) Islamic Republic of Iran:
a. Payment for import of eligible goods and services, in any freely convertible currency and / or in accordance with the directions issued by the Reserve Bank to the authorized dealers from time to time.
b. Payment in any freely convertible currency and / or in accordance with the directions issued by the Reserve Bank to the authorized dealers from time to time in all other cases.

(B) All countries other than those mentioned in A above:

(i) Payment in rupees from the account of a bank situated in any

country other than a member country of the Asian Clearing Union (ii) Payment in any freely convertible currency.

(2) In respect of import into India –

a. Where the goods are shipped from a member country of the Asian Clearing Union (other than Nepal and Bhutan) but the supplier is resident of a country other than a member country of the Asian Clearing Union, payment may be made in a manner specified for countries in Group B of Regulation 5;
b. In all other cases, payment shall be made in a currency appropriate to the country of shipment of goods;
c. Any other mode of payment in accordance with the directions issued by the Reserve Bank of India to authorized dealers from time to time.

(3) Authorised Dealers have been permitted to allow payments for import of goods/ software to be made to a Third Party (a party other than the supplier) as per the guidelines issued by the Reserve Bank.

Manner of Payment in certain cases:-

(1) Notwithstanding anything contained in Regulation 5, a person resident in India may make payment for import of goods.
In foreign exchange through an international card held by him/ in rupees from international credit card/ debit card through the credit/ debit card servicing bank in India against the charge slip signed by the importer/ as prescribed by Reserve Bank from time to time.
Provided that –
a. the transaction for which the payment is so made is in conformity with the provisions of the Act, rules and regulations made there under; and
b. the import is also in conformity with the provision of the Foreign Trade Policy in force.
(2) Any person resident in India may also make payment as under:
i. in rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India;
ii. by means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person in accordance with the terms and conditions imposed under any order issued by the Central Government under the Foreign Trade (Development and Regulations) Act, 1992 or under any other law, rules or regulations for the time being in force;
iii. a company or resident in India may make payment in rupees to its non whole time director who is resident outside India and is on a visit to India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into by it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirement of any law, rules, regulations, directions applicable for making such payments are duly complied with.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10392&Mode=0

Source: Notification No. FEMA 14(R)/2016-RB, dated: May 02, 2016

➲ **Foreign Exchange Management (Deposit) Regulations, 2016**

In terms of Regulations 5 and 6 of the Deposit Regulations, a person resident outside India may open deposit accounts with Authorized Dealer/ authorized bank/Indian company under various schemes. Details of the schemes have been specified in the respective schedules. The major features are highlighted below:

A) Non-Resident (External) Account (NRE) Scheme:

i) NRIs and PIOs are permitted to open these accounts in Indian Rupee with Authorized Dealers and authorized banks in any form e.g saving, current, recurring or fixed deposit subject to the conditions specified in Schedule 1 of the Deposit Regulations.
ii) Inward remittances from outside India to the NRE account and remittances outside India from the NRE account are permitted.
iii) Authorised Dealers/ banks in India may grant loans against the security of the funds held in NRE accounts to the account holder/ third party in India, without any limits, subject to the usual margin requirements. The loan sanctioned to the account holder can be repaid either by adjusting the deposits or through inward remittances from outside India through banking channels or out of balances held in the NRO account of the account holder. The loan shall be used for the purpose laid down in the regulations and cannot be repatriated outside India.
iv) Authorised Dealers may allow their branches/ correspondents outside India to grant loans outside India to the non-resident depositor or to a third party against the security of deposits, subject to the conditions laid down in the regulations.
v) The facility for premature withdrawal of the deposits shall not be available where loans against such deposits are availed of.
vi) The term "loan" shall include all types of fund based/ non-fund based facilities.
vii) Income from interest on the balances in the account is exempt from income tax and balances are exempt from wealth tax.
viii) Current income like rent, dividend, pension, interest, etc. of NRIs and PIOs will be construed as a permissible credit to their NRE account provided the Authorised Dealer is satisfied that the credit represents current income of the NRI/ PIO account holder and income tax thereon has been deducted/ paid/ provided for, as

the case may be.
ix) AD Category – I banks and authorized banks may credit proceeds of demand drafts / bankers' cheques/ account payee cheques issued against encashment of foreign currency to the NRE account where the instruments issued to the NRE account holder are supported by encashment certificate issued by an AD Category I/ Category – II.
x) An NRE account can be opened jointly:
(a) in the names of two or more eligible NRIs and/or PIOs;
(b) with resident relative(s) on "former or survivor" basis.

B) Foreign Currency (Non-Resident) Account (Banks) (FCNR(B)) Scheme:

i) NRIs and PIOs are permitted to open these accounts in any permissible foreign currency with Authorized Dealers subject to the conditions specified in Schedule 2 of the Deposit Regulations.
ii) These accounts can only be maintained in the form of term deposit.
iii) Other terms and conditions applicable to NRE accounts (cf. Schedule 1 of the Deposit Regulations) in respect of joint accounts, repatriation of funds, loans/ overdrafts applies mutatis mutandis to FCNR(B) accounts.
iv) Form A2 is not required to be filled while remitting funds at the time of closure of FCNR (B) accounts.

C) Non-Resident (Ordinary) Rupee (NRO) Account:

i) Any person resident outside India may open NRO account in Indian Rupee with Authorized Dealers and authorized banks for the purpose of putting through bona fide transactions in rupees subject to the conditions specified in Schedule 3 to the Deposit Regulations.
ii) The account can be maintained in any form e.g savings, current, recurring or fixed deposit.
iii) Balances in the NRO account cannot be repatriated abroad except for current income of the account holder and up to USD 1 million per financial year by NRIs and PIOs, subject to conditions specified in Foreign Exchange Management (Remittance of Assets) Regulations, 2016. Funds can be transferred to the NRE account within the USD 1 million facility.
iv) Loans may be granted in India to the account holder or third party subject to usual norms and margin requirement.
v) Transfers from other NRO accounts is a permissible credit for the account. Similarly, transfers to other NRO accounts is a permissible debit.
vi) An NRO account can be opened jointly with residents on 'former or survivor' basis. NRIs and/or PIOs may hold NRO accounts jointly with other NRIs and/or PIOs.
vii) Rupee gift/ loan made by a resident to a NRI/ PIO relative within the limits prescribed under the Liberalized Remittance Scheme may be credited to the latter's NRO account.
viii) NRO accounts may be designated as resident accounts on the return of the account holder to India for any purpose indicating his intention to stay in India for an uncertain period.
ix) Authorized Dealer Banks may furnish on a monthly basis, a statement on the number of applicants and total amount remitted.
x) Opening of accounts by individuals of Pakistan nationality and entities of Pakistan/ Bangladesh nationality/ ownership will require prior approval of the Reserve Bank of India.
xi) Individuals of Bangladesh nationality can open an NRO account provided they hold a valid visa and valid residential permit issued by Foreigner Registration Office (FRO)/ Foreigner Regional Registration Office (FRRO) concerned.

D) Special Non-Resident Rupee (SNRR) Account:

i) Any person resident outside India, having a business interest in India, may open an SNRR account in Indian Rupee with Authorized Dealers for the purpose of putting through bona fide transactions in rupees, subject to the conditions specified in Schedule 4 of the Deposit Regulations.
ii) The SNRR account shall carry the nomenclature of the specific business for which it is opened and shall not earn any interest.
iii) The debits/ credits and the balances in the account shall be incidental and commensurate with the business operations of the account holder.
iv) The tenure of the account should be concurrent to the tenure of the contract/ period of operation/ the business of the account holder and shall in no case exceed seven years.
v) The balances in the SNRR account shall be eligible for repatriation.
vi) Opening of account by individual/ entities of Pakistan/ Bangladesh nationality/ ownership will require prior approval of the Reserve Bank of India.

E) Escrow Account:

i) Resident/ non-resident acquirers and non-resident corporates may open Escrow account in INR with an Authorized Dealer in India as an escrow agent subject to the terms and conditions specified in Schedule 5 of the Deposit Regulations.
ii) Transactions shall be in accordance with the Foreign Exchange Management (Transfer or Issue of Security by a person resident Outside India) Regulations, 2000 and regulations of the Securities and Exchange Board of India (SEBI), as applicable.
iii) The accounts shall be non-interest bearing.
iv) No fund/ non-fund based facility would be permitted against the balances in the account.

F) Acceptance of deposit by a company in India from NRIs and PIOs on repatriation basis:

A company incorporated in India including a Non-Banking Financial Company (NBFC) registered with the Reserve Bank shall not accept deposits from NRIs/PIOs on repatriation basis. It may, however, renew the deposits it had accepted in accordance

with Schedule 6 of the Deposit Regulations.

G) Acceptance of deposits by Indian proprietorship concern/ firm or a company from NRIs and PIOs on non-repatriation basis:

General permission has been granted to Indian proprietorship concern/firm or a company (including Non-Banking Finance Company registered with Reserve Bank) to accept deposits from NRIs and PIOs on non-repatriation basis subject to the terms and conditions specified in Schedule 7 of these Regulations.

Other deposits (subject to Regulations 6 and 7 of the Deposit Regulations)

i) General permission has been granted to Indian companies to accept deposits from NRIs and PIOs by issue of Commercial Papers subject to conditions.
ii) A deposit made by an Authorised Dealer with its branch, head office or correspondent outside India, and a deposit made by a branch or correspondent outside India of an Authorised Dealer, and held in its books in India, will be governed by the directions issued by the Reserve Bank in this regard.
iii) A shipping or airline company incorporated outside India, can open, hold and maintain a foreign currency account with an Authorized Dealer for meeting the local expenses in India of such airline or shipping company, provided the credits to such accounts are only by way of freight or passage fare collections in India or by inward remittances through banking channels from its office outside India.
iv) An Authorised Dealer may allow unincorporated joint ventures (UJV) of foreign companies/ entities, with Indian entities, executing a contract in India, to open and maintain non-interest bearing foreign currency account and an SNRR account as specified in Schedule 4 of the Deposit Regulations for the purpose of undertaking transactions in the ordinary course of its business. The debits and credits in these accounts should be incidental to the business requirement of the UJV. The tenure of the account should be concurrent to the tenure of the contract/ period of operation of the UJV and all operations in the account shall be in accordance with the provisions of the Act or the rules or regulations made or the directions issued there under. Opening of such accounts by companies/ entities of Pakistan/ Bangladesh ownership/ nationality would require the prior approval of the Reserve Bank.
v) Opening of a foreign currency Escrow account with an Authorised Dealer in India for the purpose of routing counter-trade transactions would require approval of Reserve Bank.

To facilitate the foreign nationals to collect their pending dues in India, ADs may permit such foreign nationals to re-designate their resident account maintained in India as NRO account on leaving the country after their employment to enable them to receive their pending bonafide dues, subject to the bank satisfying itself that the credit of amounts are bonafide dues of the account holder when she/ he was a resident in India. The funds credited to the NRO account should be repatriated abroad immediately, subject to payment of the applicable Income tax and other taxes in India. The amount repatriated abroad should not exceed USD one million per financial year. The debit to the account should be only for the purpose of repatriation to the account holder's account maintained abroad. The account should be closed immediately after all the dues have been received and repatriated as per the declaration made by the account holder when the account was designated as an NRO account.

Maturity proceeds of term deposits, if any, under the erstwhile Non-Resident (Special) rupee Account Scheme (NRSR Account) which was discontinued with effect from April 1, 2002, may be credited to the NRO account of the account holder. Balances in the Exchange Earner's Foreign Currency (EEFC) Account and Resident Foreign Currency (Domestic) [RFC(D)] Account may be credited to NRE/ FCNR(B) Accounts, at the option/ request of the account holders, consequent upon change of their residential status from resident to non-resident.

Authorised Dealers may issue International Credit Cards (ICCs) to NRIs and PIOs, the debits of which are subject to the conditions for use of the ICCs by residents. Charges on the use of ICCs should be settled by the NRI/PIO out of inward remittances or balances held in NRE/ FCNR(B)/ NRO accounts. Settlement of charges out of balances held in NRO accounts are subject to the limits for repatriation of balances held in NRO accounts specified in regulation 4(2) of Foreign Exchange Management (Remittance of Assets) Regulations, 2016.

Authorised Dealers can allow the following operations on non-resident accounts in terms of Power of Attorney granted in favour of a resident by the non-resident account holder:

(a) The operations in NRE/ FCNR(B) Accounts are restricted to:
(i) Withdrawal for local payments; and
(ii) Remittance of funds through banking channels to the non-resident account holder.

(b) The operations in NRO Accounts are restricted to:
(i) All local payments in rupees including payments for eligible investments subject to compliance with relevant regulations made by the Reserve Bank; and
(ii) Remittance outside India of current income in India of the non-resident individual account holder, net of applicable taxes.

The resident Power of Attorney holder is not permitted to repatriate outside India funds held in the account other than to the non-resident individual account holder nor making payment by way of gift to a resident on behalf of the non-resident account holder or transfer funds from the account to another NRO account.

Regional Rural Banks (RRBs) are permitted to open and maintain NRO/ NRE accounts in Rupees and accept FCNR (B) deposits as per the eligibility criteria prescribed by the Reserve Bank vide Circular No. RPCD.CO.RRB.No.BC.106 /03.05.33(C)/2006-07 dated June 28, 2007. RRBs may approach the respective Regional Office of the Foreign Exchange Department, for authorization for opening of accounts/ acceptance of deposits.

Any deposit between a person resident in India and a person resident outside India which is not covered by the provisions of the Act or these Regulations would require approval of Reserve Bank.

The new regulations have been notified vide Notification No. FEMA. 5(R)/2016-RB dated April 1, 2016 c.f. G.S.R. No. 389 (E) dated April 1, 2016 and have come into force with effect from April 1, 2016 except the provisions of Regulation 7(2) (Para 6 (iii) above), which have come into effect from January 21, 2016. The Master Direction No. 14 of 2015-16 (Deposits and Accounts) has been updated accordingly to incorporate the above changes.

Source: Notification No. RBI/2015-16/390, A.P. (DIR Series) Circular No. 67/2015-16 [(1)/5(R)] dated: May 05, 2016

➲ **Amendment in export policy of edible oils**

Export of Rice Bran oil in bulk (irrespective of any pack size) has been exempted from the prohibition on export of edible oils vide *Notification No. 8/2015-2020 18-5-2016*.

➲ **Amendment in import policy under Exim Code 85269200 of Chapter 85 of ITC (HS), 2012, Schedule – I (Import Policy).**

Import of Radio remote control apparatus is `Free' subject to licence issued by the WPC wing of Department of Telecommunications, Ministry of Communications and Information Technology vide *Notification No. 7/2015-2020, dated: 9-5-2016.*

➲ **Amendment in Para 5.04 (h) of FTP 2015-2020**

A new Appendix 5D is being notified containing list of services, payments for which are received in Rupee terms and which are to be counted for fulfilment of Export Obligation under EPCG scheme vide *Notification No. 6/2015-2020, dated: 3-5-2016*.

CUSTOMS

Notifications / Circulars

➲ Amendment of Notification No. 27/2011-Customs, dated 01.03.2011 so as to impose export duty of 20% on raw sugar, white or refined sugar vide Notification No. 37/2016-Cus, dt. 16-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs37-2016.pdf

➲ Amendment of notification No. 12/2012-Customs, dated the 17th March, 2012so as to continue with the imposition of BCD of 25% on wheat beyond 30.06.2016 and without an end date vide Notification No. 38/2016-Cus, dt. 17-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs38-2016.pdf

➲ **Single Window Project** - Simplification of procedure in SWIFT for clearance of consignments related to drugs & cosmetics vide Circular No. 28/2016 dated: 14-06-2016.

Read full Notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ28-2016cs.pdf

➲ Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Gold and Silver vide Notification No. 86/2016-Cus (NT),dt. 15-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt86-2016.pdf

➲ Rate of exchange of conversion of the foreign currency with effect from 17th June, 2016 vide Notification No. 87/2016-Cus (NT),dt. 16-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt87-2016.pdf

➲ CBEC extends levy of anti-dumping duty on imports of Pentaerythritol, originating in, or exported from the People's Republic of China, for a period of one year vide Notification No. 26/2016-Cus (ADD), dt. 13-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd26-2016.pdf

➲ CBEC further amended Notification No. 96/2008-Customs dated 13.08.2008 so as to include 'Republic of Togo' and 'Republic of Chad' in the list of countries eligible for preferential tariff under the said notification vide *Notification No. 39/2016-Cus,dt. 21-06-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs39-2016.pdf

➲ CBEC further amended notification No. 53/2011-Customs dated 01st July, 2011 so as to provide deeper tariff concessions in respect of specified goods imported from Malaysia under the India-Malaysia Comprehensive Economic Cooperation Agreement

(IMCECA) w.e.f. 30.06.2016 vide *Notification No. 40/2016-Cus,dt. 21-06-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs40-2016.pdf

➲ Exchange Rate notfn. with effect from 25th June, 2016 thereby amending Notfn. 87/2016-Cus (NT) vide *Notification No. 89/2016-Cus (NT),dt. 24-06-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt89-2016.pdf

➲ CBEC revised All Industry Rates of drawback for gold and silver jewelry and silver articles vide Notification No. 90/2016-Cus (NT),dt. 24-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt90-2016.pdf

➲ CBEC seeks to levy provisional anti-dumping duty on Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14 OD, originating in or exported from China PR, for a period not exceeding six months vide *Notification No. 18/2016-Cus (ADD), dt. 17-05-2016.*

See full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd18-2016.pdf

➲ CBEC amended notification No. 40/2012 -Customs (ADD) dated 30th August, 2012, so as to amend, for the purposes of levy of Anti-Dumping Duty on imports of 'Metronidazole' originating in, or exported from China PR, the name of the Exporter from 'M/s Hubei Hongyuan Pharmaceutical Co., Ltd' to 'M/s Hubei Hongyuan Pharmaceutical Technology Co., Ltd'. vide *Notification No. 19/2016-Cus (ADD), dt. 19-05-2016.*

Read full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd19-2016.pdf

➲ CBEC imposed definitive anti-dumping duty on Polytetrafluoroethylene (PTFE) [Tariff Item 3904 61 00], originating in or exported from Russia, for a period of five years (unless revoked, superseded or amended earlier) vide *Notification No. 23/2016-Cus (ADD), dt. 06-06-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd23-2016.pdf

➲ CBEC finalized provisional assessments of all imports of Vitrified/Porcelain tiles, originating in or exported from China PR which have been subjected to provisional assessment pursuant to the notification No. 35/2012-Customs (ADD), dated the 10th July, 2012 vide *Notification No. 24/2016-Cus (ADD), dt. 07-06-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd24-2016.pdf

➲ CBEC further amended Notification No.27/2011-Customs, dated 1.3.2011 - exemption withdrawn on export of Chromium ores and concentrates, all sorts vide *Notification No. 35/2016 [Cus], dated: 26-5-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs35-2016 pdf

➲ **Customs - Notification No. 34/2016-Cus, dt. 19-05-2016**

CBEC amended Notification No. 96/2008-Customs dated: 13.08.2008, so as to carry out the following changes:
• to omit 'Samoa' and 'Maldives' from the list of countries eligible for preferential tariff under the said notification;
• to amend the name of 'Republic of East Timor' as 'Democratic Republic of Timor-Leste'.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs34-2016.pdf

➲ **Customs - Notification No. 33/2016 [Cus], dt. 17-5-2016**

Amendment in Notification No. 39/96-Customs dated 23.7.1996 - Exemption withdrawn from various items on Import of various specified goods for Specified purposes.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs33-2016-revised.pdf

➲ **Customs - Notification No. 32/2016 [Cus], dated: 5-5-2016**

Amendment in Notification No.24/2005-Customs dated 1.03.2005 - Restriction on benefit of exemption with regard to the items "charger or adapter, battery, wired headsets and speakers of mobile handsets including cellular phones" withdrawn.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs32-2016 pdf

➲ **Customs - Notification No. 31/2016 [Cus], dt. 5-5-2016**

Amendment in Notification No. 21/2012-Customs dated

17.03.2012 - Import of Charger or adapter, battery, wired headsets for use in manufacture of mobile handsets including cellular phones shall be exempted subject to conditions.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs31-2016.pdf

➲ CBEC further amended Notification No.12/2012-Customs dated 17.03.2012 - Effective rate of duty on import of goods - Amendments with regard to various items vide Notification No. 30/2016 [Cus], dated: 5-5-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs30-2016.pdf

➲ **Customs - Notification No. 22/2016 [ADD], dt. 31-5-2016**

CBEC seeks to impose definitive anti-dumping duty on "Methyl Acetoacetate", originating in or exported from USA or China PR, for a period of five years (unless revoked, superseded or amended earlier).

Read more at: http://www.cbec.gov.in/resources//htdocscbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd22-2016.pdf

➲ **Customs - Notification No. 21/2016 [ADD], dt.31-5-2016**

CBEC seeks to impose anti-dumping duty on 'Dichloromethane (Methylene Chloride)' of all types [tariff item 2903 12 00], originating in or exported from People's Republic of China or Russia, for a period of five years (unless revoked, superseded or amended earlier), from the date of imposition of the provisional anti-dumping duty i.e. from the 08th of December, 2015.

Read more at: http://www.cbec.gov.in/resources//htdocscbec/customs/cs-act/notifications/notfns-2016/cs-add2016csadd21-2016.pdf

➲ **Customs - Notification No. 20/2016 [ADD], dt. 27-5-2016**

CBEC impose anti-dumping duty on Coumarin of all types [Tariff Item 2932 20 10], originating in or exported from People's Republic of China, for a period of five years (unless revoked, superseded or amended earlier).

Read more at: http://www.cbec.gov.in/resources//htdocscbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd20-2016.pdf

➲ **Customs - Notification No. 18/2016 [ADD], dt. 17-5-2016**

CBEC levied provisional anti-dumping duty on Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14"OD, originating in or exported from China PR, for a period not exceeding six months.]

Read more at: http://www.cbec.gov.in/resources//htdocscbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd18-2016.pdf

➲ **Customs - Notification No. 17/2016 [ADD], dt. 13-5-2016**

CBEC seeks to levy definitive anti-dumping duty on imports of Digital Versatile Discs-Recordable (DVD-R) originating in, or exported from Vietnam and Thailand for a period of five years.

Read more at: http://www.cbec.gov.in/resources//htdocscbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd17-2016.pdf

➲ **Customs - Notification No. 16/2016 [ADD], dt. 2-5-2016**

CBEC levied definitive anti-dumping duty on imports of Measuring Tapes originating in, or exported from Chinese Taipei, Malaysia, Thailand and Vietnam for a period of five years.

Read more at: http://www.cbec.gov.in/resources//htdocscbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd16-2016.pdf

➲ CBEC further amended Notification No.27/2011-Customs dated 1.3.2011 - exemption withdrawn on export of Chromium ores and concentrates, all sorts vide *Notification No. 35/2016 [Cus], dated: 26-5-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs35-2016.pdf

➲ **Customs - Notification No. 34/2016-Cus, dt. 19-05-2016**

CBEC amended Notification No. 96/2008-Customs dated: 13.08.2008, so as to carry out the following changes:

- to omit 'Samoa' and 'Maldives' from the list of countries eligible for preferential tariff under the said notification;
- to amend the name of 'Republic of East Timor' as 'Democratic Republic of Timor-Leste'.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs34-2016.pdf

➲ **Customs - Notification No. 33/2016 [Cus], dt. 17-5-2016**

Amendment in Notification No. 39/96-Customs dated 23.7.1996 - Exemption withdrawn from various items on Import of various

specified goods for Specified purposes.
Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs33-2016-revised.pdf

➲ **Customs - Notification No. 32/2016 [Cus], dated: 5-5-2016**

Amendment in Notification No.24/2005-Customs dated 1.03.2005 - Restriction on benefit of exemption with regard to the items "charger or adapter, battery, wired headsets and speakers of mobile handsets including cellular phones" withdrawn.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs32-2016.pdf

➲ **Customs - Notification No. 31/2016 [Cus], dt. 5-5-2016**

Amendment in Notification No. 21/2012-Customs dated 17.03.2012 - Import of Charger or adapter, battery, wired headsets for use in manufacture of mobile handsets including cellular phones shall be exempted subject to conditions.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs31-2016.pdf

➲ CBEC further amended Notification No.12/2012-Customs dated 17.03.2012 - Effective rate of duty on import of goods - Amendments with regard to various items vide *Notification No. 30/2016 [Cus], dated: 5-5-2016*.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs30-2016.pdf

➲ Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Gold and Silver - *Notification No. 78/2016-Cus (NT), dt. 31-05-2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt78-2016.pdf

➲ **Customs - Notification No. 22/2016 [ADD], dt.31-5-2016**

CBEC seeks to impose definitive anti-dumping duty on "Methyl Acetoacetate", originating in or exported from USA or China PR, for a period of five years (unless revoked, superseded or amended earlier).

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd22-2016.pdf

➲ **Customs - Notification No. 21/2016 [ADD], dt.31-5-2016**
CBEC seeks to impose anti-dumping duty on 'Dichloromethane (Methylene Chloride)' of all types [tariff item 2903 12 00], originating in or exported from People's Republic of China or Russia, for a period of five years (unless revoked, superseded or amended earlier), from the date of imposition of the provisional anti-dumping duty i.e. from the 08th of December, 2015.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd21-2016.pdf

➲ **Customs - Notification No. 20/2016 [ADD], dt. 27-5-2016**

CBEC seeks to impose anti-dumping duty on Coumarin of all types [Tariff Item 2932 20 10], originating in or exported from People's Republic of China, for a period of five years (unless revoked, superseded or amended earlier).

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd20-2016.pdf

➲ **Customs - Notification No. 18/2016 [ADD], dt. 17-5-2016**

CBEC levied provisional anti-dumping duty on Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14"OD, originating in or exported from China PR, for a period not exceeding six months.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd18-2016.pdf

➲ **Customs - Notification No. 17/2016 [ADD], dt. 13-5-2016**

CBEC seeks to levy definitive anti-dumping duty on imports of Digital Versatile Discs-Recordable (DVD-R) originating in, or exported from Vietnam and Thailand for a period of five years.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd17-2016.pdf

➲ **Customs - Notification No. 16/2016 [ADD], dt. 2-5-2016**

CBEC levied definitive anti-dumping duty on imports of Measuring Tapes originating in, or exported from Chinese Taipei, Malaysia, Thailand and Vietnam for a period of five years.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd16-2016.pdf

Private Warehouse Licensing Regulations, 2016

In exercise of the powers conferred by section 157 read with section 58 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs makes regulations called as the Private Warehouse Licensing Regulations, 2016.

Licensing of private warehouse:

(1) Upon an application being made to license a private warehouse, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may issue a licence to the applicant who, –
(a) is a citizen of India or is an entity incorporated or registered under any law for the time being in force;
(b) submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;
(c) furnishes a solvency certificate from a scheduled bank for an amount to be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be:
Provided that the condition of furnishing a solvency certificate shall not be applicable to an undertaking of the Central Government or State Government or Union territory.

Conditions to be fulfilled by applicant:

Where, after inspection of the premises, evaluation of compliance to the conditions under regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that licence may be granted, he shall require the applicant to,-
(a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime, in favour of the President of India, for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the private warehouse at any point of time;
(b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Warehouse (Custody and Handling of Goods) Regulations, 2016;
(c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and
(d) appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper.

Grant of licence - Upon fulfillment of the conditions specified in the regulation 3 and regulation 4, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may grant a licence in respect of the private warehouse subject to such conditions as deemed necessary.

Validity of licence – Any licence granted under regulation 5 shall remain valid until and unless it is cancelled in terms of the provisions under section 58B or sub-regulation (2) of regulation 8.

Non–transferability of licence – A licence granted under regulation 5 shall not be transferable.

Surrender of licence – (1) A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.
(2) On receipt of the request under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may cancel the licence if, –
(a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;
(b) no warehoused goods remain deposited in the private warehouse or are deposited in the private warehouse from the date of request referred in sub-regulation (1);and
(c) no proceedings are pending against the licensee under the Act or the rules and regulations made thereunder.

Licence for existing private warehouses – A private warehouse licensed under section 58 as it stood immediately before the commencement of the Finance Act 2016 (28 of 2016), shall be valid under these regulations provided such warehouse fulfill the requirements specified in clause (b) and clause (c) of sub-regulation (1) of regulation 3 and the conditions specified in regulation 4 within a period of three months from the date of commencement of these regulations.

Source: Customs - Notification No. 71/2016 [Cus (NT)], dated: 14-5-2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt71-2016.pdf

Public Warehouse Licensing Regulations, 2016

In exercise of the powers conferred by section 157, read with section 57 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes regulations called Public Warehouse Licensing Regulations, 2016.

Licensing of public warehouse – (1) Upon an application being made to license a public warehouse, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may issue a licence to an applicant who, –

(a) is a citizen of India or is an entity incorporated or registered under any law for the time being in force;
(b) submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;
(c) furnishes a solvency certificate from a scheduled bank for a sum of two crore rupees:
Provided that the condition of furnishing a solvency certificate shall not be applicable to an undertaking of the Central Government or State Government or Union territory or to ports notified under the Major Port Trusts Act, 1963 (38 of 1963);

Conditions to be fulfilled by applicant – Where, after inspection of the premises, evaluation of compliance to the conditions under regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that licence may be granted, he shall require the applicant to:

(a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime, in favour of the President of India, for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the public warehouse at any point of time;
(b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Warehouse (Custody and Handling of Goods) Regulations, 2016;
(c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and
(d) appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper.

Grant of licence – Upon fulfillment of the conditions specified in regulation 3 and regulation 4, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may grant a licence in respect of the public warehouse subject to such conditions as deemed necessary.

Validity of licence – Any licence granted under regulation 5 shall remain valid until and unless it is cancelled in terms of the provisions under section 58B or sub-regulation (2) of regulation 8.

Non–transferability of licence - A licence granted under regulation 5 shall not be transferable.

Surrender of licence: (1) A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(2) On receipt of the request under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may cancel the licence if, –
(a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;
(b) no warehoused goods remain deposited in the public warehouse or are deposited in the public warehouse from the date of request referred in sub-regulation (1); and
(c) no proceedings are pending against the licensee under the Act or the rules or regulations made thereunder.

Source: Customs - Notification No. 70/2016 [Cus (NT)], dated: 14-5-2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt70-2016.pdf

➲ **CBEC specifies the class of goods which shall be deposited in a special warehouse licensed under sub-section (1) of Section 58A of the Customs Act, 1962 vide Notification No. 66/2016 [Cus (NT)] 14-5-2016**

In exercise of the powers conferred by sub-section (2) of section 58A of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs specifies the following class of goods which shall be deposited in a special warehouse licenced under sub-section (1) of the said section namely:-

(1) gold, silver, other precious metals and semi-precious metals and articles thereof;
(2) goods warehoused for the purpose of :
(a) supply to duty free shops in a customs area;
(b) supply as stores to vessels or aircrafts under Chapter XI of the Customs Act, 1962;
(c) supply to foreign privileged persons in terms of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt66-2016.pdf

➲ **Special Warehouse Licensing Regulations, 2016**

In exercise of the powers conferred by section 157 read with section 58A of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes regulations shall be called as the Special Warehouse Licensing Regulations, 2016.

Licensing of special warehouse – (1) Upon an application being made to license a special warehouse, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may issue a licence to an applicant who,-

(a) is a citizen of India or is an entity incorporated or registered under any law for the time being in force;
(b) furnishes a solvency certificate from a scheduled bank for an amount as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be:
Provided that the condition of furnishing a solvency certificate shall not be applicable to an undertaking of the Central Government or State Government or Union territory.
(c) proposes to store goods notified by the Board under sub-section (2) of section 58A;
(d) submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; and
(e) undertakes to pay for the services of supervision of the warehouse by officers of customs on recovery of costs.

(2) The Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, shall not issue a licence to an applicant if, -
(a) he has been declared an insolvent or bankrupt by a Court or Tribunal;
(b) he has been convicted for an offence under any law for the time being in force;
(c) he has been penalised for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994);
(d) he is of unsound mind and stands so declared by a competent Court; or
(e) the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, is satisfied that-

(i) the site or building of the proposed special warehouse is not suitable for secured storage of dutiable goods;
(ii) the site or building of the proposed special warehouse is not suitable for general supervision by officers of customs;
(iii) bankruptcy proceedings are pending against the applicant; or
(iv) criminal proceedings are pending against the applicant and the offences involved are of such nature that he is not a fit person for grant of licence.

Conditions to be fulfilled by applicant – Where, after inspection of the premises, evaluation of compliance to the conditions of regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that licence may be granted, he shall require the applicant to:

(a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime in favour of the President of India for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the special warehouse at any point of time;
(b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Special Warehouse (Custody and Handling of Goods) Regulations, 2016;
(c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and
(d) appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper.

Grant of licence – Upon fulfillment of the conditions specified in regulation 3 and regulation 4, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may grant a licence in respect of the special warehouse subject to such conditions as deemed necessary.

Validity of licence – Any licence granted under regulation 5 shall remain valid until and unless it is cancelled in terms of the provisions under section 58B or sub-regulation (2) of regulation 8.

Non–transferability of licence - A licence granted under regulation 5 shall not be transferable.

Surrender of licence – (1) A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be;
(2) On receipt of the request under sub-regulation (1), the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, may cancel the licence if, –
(a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;
(b) no warehoused goods remain deposited in the special warehouse or are deposited in the special warehouse from the date of request referred in sub-regulation (1); and
(c) no proceedings are pending against the licensee under the Act or the rules or regulations made thereunder.

Licence for existing warehouses – (1) A public warehouse appointed under section 57 or a private warehouse licensed under section 58 as it stood immediately before the commencement of the Finance Act, 2016 (28 of 2016), may continue to carry out operations in respect of goods notified under sub-section (2) of section 58A for a period of three months from the date of coming into force of these regulations:
Provided that such a warehouse shall remain under the lock of customs.
(2) A warehouse referred to in sub-regulation (1) that intends to store goods notified under sub-section (2) of section 58A beyond the period of three months, shall apply for a license under

these regulations within a period of one month from the date of commencement of these regulations.

Source: Notification No. 72/2016 [Cus (NT)] dated: 14-5-2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt72-2016.pdf;jsessionid=9F20CDD7DF6AC61581C5DFB0E3AA0F93

➲ **Warehouse (Custody and Handling of Goods) Regulations, 2016**

In exercise of the powers conferred by section 157 read with section 57, section 58 and sub-section (2) of Section 73A of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs makes regulations called the Warehouse (Custody and Handling of Goods) Regulations, 2016.

Appointment of warehouse keeper:

(1) A licensee shall appoint a warehouse keeper who has sufficient experience in warehousing operations and customs procedures to discharge functions on his behalf.
(2) The warehouse keeper shall obtain a digital signature from authorities licensed by the Controller of Certifying Authorities for filing electronic documents required under the Act, rules or regulations made thereunder.

Facilities, equipment and personnel – A licensee shall provide at the warehouse in respect of which a licence has been issued,-
(a) such facilities, equipment and personnel as are sufficient to control access to the warehouse and provide secure storage of the goods in it, including, -
(i) doors and other building components of sturdy construction;
(ii) secure locks on doors and windows; and
(iii) signage that prominently indicates that the site or building is a customs bonded warehouse.
(b) adequate personnel, equipment and space for the examination of goods by officers of customs; and
(c) a computerised system for accounting of receipt, storage, operations and removal of goods.

Receipt of goods from customs station – (1) Upon receipt of goods at a warehouse from a customs station, the licensee shall –
(a) verify the one-time-lock affixed by the proper officer at the customs station on the container or means of transport, as the case may be, carrying the goods to the warehouse;
(b) inform the bond officer immediately if the one-time-lock is not found intact, and refuse the unloading of the goods;
(c) allow unloading, provided the one-time-lock is found intact and verify the quantity of goods received by reconciling with the bill of entry for warehousing and invoice;
(d) report any discrepancy in the quantity of the goods within twenty four hours to the bond officer;
(e) endorse the bill of entry for warehousing bearing the order referred to in subsection (1) of section 60, with the quantity of goods received and retain a copy thereof;
(f) acknowledge the receipt of the goods by endorsing the transportation document presented by the carrier of the goods and retain a copy thereof; and
(g) take into record the goods received.

(2) Upon taking into record the goods received in the warehouse, the licensee shall cause to be delivered an acknowledgement to the proper officer referred to in sub-section (1) of section 60 and to the bond officer regarding the receipt of the goods at the warehouse.

Transfer of goods to another warehouse:

(1) A licensee shall not allow transfer of warehoused goods to another warehouse without the permission of the bond officer under section 67 on the Form for transfer of goods from a warehouse.
(2) Where an owner of the warehoused goods produces the Form for transfer of goods from a warehouse bearing the orders of the bond officer, the licensee shall,-
(a) allow removal of the goods and their loading onto the means of transport;
(b) affix a one-time-lock to the means of transport;
(c) endorse the number of the one-time-lock on the Form for transfer of goods from a warehouse and retain a copy thereof;
(d) endorse the number of the one-time-lock on the transport document and retain a copy thereof;
(e) take into record the removal of the goods; and
(f) cause to be delivered, copies of the retained documents to the bond officer.

Read full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt68-2016.pdf

Source: Notification No. 68/2016 [Cus (NT)] dated: 14-5-2016

➲ **Special Warehouse (Custody and Handling of Goods) Regulations, 2016**

In exercise of the powers conferred by section 157 read with section 58A and sub-section (2) of Section 73A of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs makes regulations called the Special Warehouse (Custody and Handling of Goods) Regulations, 2016.

Appointment of warehouse keeper – (1) A licensee shall appoint a warehouse keeper who has experience in warehousing operations and customs procedures, to discharge functions under these regulations on his behalf.

(2) The warehouse keeper shall obtain a digital signature from authorities licensed by the Controller of Certifying Authorities for filing electronic documents required under the Act, rules or regulations made thereunder.

Facilities, equipment and personnel:

A licensee shall provide at the warehouse in respect of which a licence has been issued, -
(a) such facilities, equipment and personnel as are sufficient to control access to the warehouse and provide secure storage of the goods in it, including -
(i) doors, windows and other building components of sturdy construction;
(ii) facility for locking the warehouse by the bond officer;
(iii) signage that prominently indicates that the site or building is a customs bonded warehouse.
(b) adequate personnel, equipment and space for the examination of goods by officers of customs; and
(c) a computerised system for accounting of receipt, storage, operations and removal of goods.

Control over special warehouses. - The bond officer shall cause the warehouse to be locked and no person shall enter the warehouse or deposit or remove any goods therefrom, except in his presence.

Receipt of goods:

(1) A licensee shall not receive any goods or permit unloading of any goods at the warehouse except in the presence of the bond officer.

(2) Upon the bond officer permitting the deposit of the goods in the warehouse, the licensee shall take into record the goods received in the warehouse and cause to be delivered an acknowledgement to the proper officer referred to in sub-section (1) of section 60 for receipt of the goods at the warehouse or proper officer of the warehouse of despatch, as the case may be.

Transfer of goods to another warehouse:

(1) A licensee shall not allow the transfer of warehoused goods to another warehouse without the permission of the bond officer on the Form for transfer of goods from a warehouse.
(2) Upon the bond officer permitting the removal of the goods from the warehouse, the licensee shall in the presence of the bond.

Source: Notification No. 69/2016 [Cus (NT)] dated: 14-5-2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt69-2016.pdf

➲ **Warehoused Goods (Removal) Regulations, 2016**

In exercise of the powers conferred by section 157 read with section 60, section 67 and section 69 of the Customs Act, 1962 (52 of 1962), and in supersession of the Warehoused Goods (Removal) Regulations 1963, except as respects things done or omitted. to be done before such supersession, the Central Board of Excise and Customs makes regulation called Warehouse Goods (Removal) Regulations, 2016.

Form for transfer of goods from a warehouse - Where the warehoused goods are to be removed from one warehouse to another warehouse or from a warehouse to a customs station for export, the owner of the goods shall make such request by filing the Form appended to these regulations.

Conditions for transport of goods -Where the goods are removed from the customs station of import to a warehouse or from one warehouse to another warehouse or from the warehouse to a customs station for export, the transport of the goods shall be under one-timelock, affixed by the proper officer or the licensee or the bond officer, as the case may be:
Provided that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may having regard to the nature of goods or manner of transport, permit transport of the goods without affixing the one-time-lock.

Conditions for due arrival of goods - The owner of the goods shall produce to the bond officer or proper officer under sub-section (1) of section 60, as the case may be, within one month or within such extended period as such officer may allow, an acknowledgement issued by the licensee or the bond officer of the warehouse to which the goods have been removed or the proper officer at the customs station of export, as the case may be, stating that the goods have arrived at that place, failing which the owner of such goods shall pay the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable under subsection (1) of section 72.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt67-2016-revised.pdf

Source: Notification No. 67/2016 [Cus (N.T.)] dated: 14-5-2016

➲ **Procedure regarding filing of ex-bond bill of entry**

Section 68 of the Customs Act, 1962 requires the filing of a bill of entry (ex-bond bill of entry) for clearance of any warehoused goods for home consumption. At present, the ex-bond bills of entry are being filed with the Commissionerates having jurisdiction over the warehouses and in large number of cases, manually. The filing of ex-bond bills of entry on ICES will provide the benefits of automation to importers availing the warehousing facility and lend efficiency to the process of clearance of the warehoused goods.

Accordingly, the Board has decided that the importer or owner of the warehoused goods seeking to clear goods for home consumption under section 68 shall henceforth file ex-bond bills of entry on ICES and the customs station of import shall assess the Bill of Entry for clearance of the warehoused goods for home consumption.

The importer or owner of the goods shall produce a copy of the assessed ex-bond bill of entry with the order for clearance of goods for home consumption given by the proper officer, to the jurisdictional bond officer assigned to the warehouse, for permitting clearance of the warehoused goods.

Upon the importer or owner producing the ex-bond bill of entry for home consumption, the bond officer shall:

i. verify the bill of entry particulars from ICEGATE at: https://www.icegate.gov.in/TrackAtICES/beTrackIces (to check that the order for clearance of the goods for home consumption has been made by the proper officer); and

ii. permit the removal of goods from the warehouse for home consumption, in terms of regulation 8 of the Warehouse (Custody and Handling of Goods) Regulations, 2016, by affixing his dated signature on the copy of the ex-bond bill of entry;

In case of any mismatch between the details in the ex-bond bill of entry from those viewed on ICEGATE, the bond officer shall not permit removal of the goods from the warehouse and immediately inform his Deputy or Assistant Commissioner of Customs, as the case may be, who shall resolve the matter in consultation with the customs station of import.

Read full Notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ22-2016cs.pdf

Source: Circular No. 22 /2016 -Customs, dated: 31st May 2016

➲ **Clarification on segregation of impurities viz. iron, steel, rubber, plastic, dust etc. from honey grade brass scrap vide Circular No. 1029/17/2016-CX, dated: 10-05-2016.**

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1029-2016cx.pdf

CENTRAL EXCISE

Notifications / Circulars

➲ **Levy of excise duty on readymade garments and made articles of textiles bearing a brand name or sold under a brand name and having a retail sale price of Rs. 1000 or more in this year's Budget**

The issue raised is whether excise duty would be chargeable on readymade garments or made up articles of textiles which are sold by a retail store which merely affixes the retail sale price on the readymade garments or made up articles of textiles which are purchased by such retail store from the open market.

The issue has been examined in the Ministry. The present levy is not on all readymade garments and made ups, and is restricted only to readymade garments and made up articles of textiles bearing a brand name or sold under a brand name and having retail sale price (RSP) of Rs. 1000 or above. Further, to avoid disputes and minimize duty evasion, it has also been provided that affixing a brand name on the product, labelling or relabeling of its containers or repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to manufacture.

For this purpose, "Brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

However, such retailer shall not be liable to pay excise duty if:

a) the retail sale price of such readymade garments or made up articles of textiles is less than Rs. 1000, or
b) the aggregate value of clearances for home consumption by such person is less than Rs. 1.5 crore in a year [provided aggregate value of clearances during previous financial year was less than Rs. 4 crore].

Further, merely because the outlets [shop] of a retailer, from where readymade garments or made ups are sold, has a name, say, M/s XYZ and Sons, the readymade garments or made ups sold from such outlet [shop] cannot be held as branded readymade garments or made ups and become liable to excise duty. Needless to say, deemed manufacture and liability to excise duty will arise only if such retailer affixes a brand name on the readymade garments and affixes a label bearing the RSP on the packages containing the readymade garments of Rs. 1000 or above.

Further, it is directed that field formations shall not visit individual retail outlets or retail chains, except based on specific inputs regarding duty evasion and with the approval of the jurisdictional Commissioner or Additional Director General or above.

Source: Circular No. 1031/19/2016-CX, dated: 14th June, 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1031-2016cx.pdf;jsessionid=E8B1180B0D4CA73931678A25A16C314C

➲ **C.E. - Notification No. 26/2016 [CE (NT)], dated: 5-5-2016**

Duty includes Infrastructure Cess leviable where the Export are allowed without payment of duty or procurement of goods without payment of duty for use in manufacture of export goods - Seeks to further amend notification No. 42/2001-CE(NT) dated 26.6.2001, No. 43/2001-CE(NT) dated 26.6.2001, No. 19/2004-CE(NT) dated 6.9.2004 and No. 21/2004-CE(NT) dated 6.9.2004.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent26-2016.pdf

➲ **Central Excise - Notification No. 25/2016 [CE (NT)], dated: 5-5-2016**

Routers falling under tariff item 8517 69 30 shall be subject to MRP based duty on 80% of MRP - Seeks to further amend notification No.49/2008-Central Excise (N.T.) dated 24.12.2008.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent25-2016.pdf

➲ **Central Excise - Notification No. 23/2016 [CE], dated: 17-5-2016**

CBEC further amended Notification No. 12/2012-Central Excise dated 17.03.2012 so as to carry out the following changes:

- to exempt excise duty on RBD Palm Stearin, Methanol and Sodium Methoxide for the manufacture of bio-diesel (alkyl ester of long chain fatty acids obtained from vegetable oils, commonly known as biodiesels) on actual user basis for a period upto and inclusive of 31st March, 2017;
- to withdraw excise duty exemption on biodiesel with effect from 1st April, 2017; and
- to levy 6% excise duty on biodiesel and its inputs namely, RBD Palm Stearin, Methanol and Sodium Methoxide with effect from 1st April, 2017.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-tarr2016/ce23-2016.pdf

➲ **Central Excise - Notification No. 22/2016 [CE] dt. 5-5-2016**

CBEC further amended notification No.12/2012-Central Excise dated 17.03.2012 - Effective rate of duty - Modification in respect to items i.e (a) Populated printed circuit board" (b) Parts, testing equipment, tools and tool-kits for maintenance, repair, and overhauling (MRO) and (c) etc.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-tarr2016/ce22-2016.pdf

➲ **Central Excise - Notification No. 27/2016-CENT, dated: 14-05-2016**

CBEC seeks to replace the references to sub-clauses to clause 159 of the Finance Bill, 2016 with sub-sections to section 162 of the Finance Act, 2016 in the notification No. 23/2004 – Central Excise (N.T.) dated 10th September, 2004.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent27-2016.pdf

Case Laws:

➲ **Tools and dies used in fabrication of capital goods are eligible for Cenvat credit**

Cenvat : Where assessee, a manufacturer of motor vehicle components and parts, availed cenvat credit of duty paid on inputs falling under Chapter Heading 72 of Central Excise Tariff Act, which had been used in fabrication of tools/dies within factory, which in turn had been further used in manufacture of final product being auto parts, which had been cleared on payment of duty, assessee was eligible for cenvat credit.

Rule 4 , read with rule 2(a), of the Cenvat Credit Rules, 2004 - Cenvat Credit - Conditions for allowing - Assessee, a manufacturer of motor vehicle components and parts, availed cenvat credit of duty paid on inputs falling under Chapter Heading 72 of Central Excise Tariff Act, which had been used in fabrication of tools/dies within factory, which in turn had been further used in manufacture of final product being auto parts, which had been cleared on payment of duty - Adjudicating Authority denied cenvat credit on ground that as inputs fell under Chapter Heading 72, same would not fall under definition of capital goods as defined in rule 2(a) - Whether as tools and dies including moulds have been defined as capital goods in rule 2(a)(A)(iv), assessee was eligible for cenvat credit - Held, yes. [In favour of assessee]

Case Laws: CESTAT, ALLAHABAD BENCH, Makino Auto Industries (P.) Ltd. v. Commissioner of Central Excise & Service Tax, Noida [2016] 71 taxmann.com 209 (Allahabad - CESTAT)

➲ **Freight shown in commercial invoice without including it in Excise invoice is also deductible from excisable value**

Excise & Customs: Purpose of showing freight separately is to ascertain its amount for deduction under rule 5 of Valuation Rules, 2000; hence, if freight is shown separately in commercial invoice, then, deduction thereof cannot be denied merely because same was not shown separately in excise invoice.

Section 4 of the Central Excise Act, 1944, read with Rule 5 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 - Valuation under Central Excise - Transaction value - Exclusion of Cost of Transport/Transit Insurance - Period 1-7-2000 to 31-3-2003 - In addition to sale price, assessee recovered

freight from customers showing same separately in commercial invoice - But, assessee did not include freight in 'value' for charge of duty - Department included same in value on ground that : (a) place of removal was customer's premises; and (b) freight was not shown separately in excise invoice.

HELD :

Purpose of showing freight separately is to ascertain its amount for deduction under rule 5 and, in this case, said purpose was served by showing freight separately in commercial invoice; therefore, deduction cannot be denied merely because freight was not shown separately in excise invoice - Sale was at factory gate, therefore, place of removal was factory - During relevant period, place of removal was restricted to factory gate or depot; therefore, premises of buyer could not have been place of removal - Therefore, freight beyond factory (place of removal) cannot be included in value. [In favour of assessee].

Case Laws: CESTAT, Mumbai Bench, Cylin Valve Industries v. Commissioner of Central Excise, Commissionerate Pune-III
[2016] 71 taxmann.com 187 (Mumbai - CESTAT)

➲ **No Cenvat credit on capital goods if assessee has claimed depreciation on it**

Cenvat Credit: If, in second year of receipt of capital goods, depreciation is availed in respect of balance 50 per cent duty suffered on capital goods, then, credit of said amount cannot be allowed as per rule 4 of CENVAT Credit Rules.

Rule 4 , read with Rule 3 , of the Cenvat Credit Rules, 2004 and Rule 4 of the Cenvat Credit Rules, 2001 - Cenvat Credit - Conditions for allowing of - Capital goods - As regards duty paid on capital goods received in year 2001-02, assessee took 50 per cent credit in that year - In 2002-03, assessee took balance 50 per cent credit and also availed depreciation under Income-tax Act, 1961 on balance 50 per cent duty amount - Department argued that credit cannot be allowed, if depreciation is claimed on duty amount - HELD : Rule 4(4) has a clear provision that if depreciation is availed under Income-tax Act, 1961 in respect of duty suffered on capital goods, credit of said amount cannot be allowed - Therefore, Cenvat Credit in respect of duty on which depreciation was claimed, is not admissible. [In favour of revenue]

Section 11A of the Central Excise Act, 1944, read with section 73 of the Finance Act, 1994 and section 28of the Customs Act, 1962 - Recovery - Of duty or tax not levied/paid or short-levied/ paid or erroneously refunded - Invocation of Extended Period of Limitation - Assessee took credit as well as depreciation on duty element of capital goods, despite specific bar under rule 4 of CENVAT Credit Rules - Department invoked extended period alleging suppression - HELD : Department was not aware about simultaneous availment of depreciation as well as Cenvat Credit on same amount of duty - Therefore, there is a clear suppression of facts on part of assessee and hence, demand is correctly raised by invoking extended period. [In favour of revenue]

Case Laws: CESTAT, Mumbai Bench, Pacific Organics (P.) Ltd. v. Commissioner of Central Excise, Mumbai-I
[2016] 71 taxmann.com 169 (Mumbai - CESTAT)

➲ **Fee for maintenance of roads and street lights would fall under 'Management, maintenance or repair services'**

Service Tax: Where assessee was engaged in business of leasing Government land and also collecting charges for maintenance of street light and repair and maintenance of roads, etc. from entrepreneur allottees of land, activities carried out by assessee would fall under category of 'management, maintenance or repair'

Section 65(64), read with sections 65(25b) and 66, of the Finance Act, 1994 - Management, maintenance or repair - Assessee was engaged in business of leasing Government land and also collecting charges for maintenance of street light and repair and maintenance of roads, etc. from entrepreneur allottees of land - It submitted that (i) activities carried out by it would fall under category of 'commercial or industrial construction' defined under section 65(25b), and (ii) it performed statutory functions on behalf of State Government and so was not liable to service tax - Whether activities carried out by assessee would fall under category of 'management, maintenance or repair' defined under section 65(64) - Held, yes - Whether charges collected by assessee constituted consideration for taxable service and would be liable to service tax - Held, yes. [In favour of revenue]

Circulars & Notifications: CBEC Circular No. 89/7/2006, dated 18-12-2006/Circular No. 192/62/2016-ST, dated 13-4-2016/ Notification No. 23/2016, dated 13-4-2016

FACTS:

- The assessee, a limited company, was engaged in the business of leasing the Government land and also collecting charges for maintenance of street light and repair and maintenance of roads, etc. from the entrepreneur allottees of the land.
- The Adjudicating Authority held that the activities carried out by the assessee would fall under the category of 'management, maintenance or repair' defined under section 65(64). He further levied service tax on the maintenance and street light charges collected by the assessee.
- On appeal to Tribunal, the assessee submitted that (i) it performed statutory functions on behalf of the State Government and so was not liable to service tax, and (ii) its activities would fall under the category of 'commercial or industrial construction' defined under section 65(25b) read with section 65(105)(zzaj).

HELD

▪ Even if the charges collected by the assessee are statutorily prescribed, they remain a consideration for rendition of service. There is nothing in section 66 which implies that if charges for rendition of taxable service are statutorily prescribed, the same would not be liable to service tax. Similarly there is nothing in section 65 to imply or even suggest that a service rendered as part of statutory duty/obligation will not be treated as taxable service even if it satisfied the definition of any of the taxable services enumerated therein. When the service rendered is a taxable service as defined in section 65, there is no inherent exemption from levy of service tax merely on the ground that the service provider is Government or Government Agency, nor is there any exemption from the levy of service tax merely because service recipient is Government or Government agency. If such services are exempted under an exemption Notification issued under section 93, that is a separate issue.

▪ The documents which spell out the activities of the assessee mention about maintenance of industrial area and annual street light charges. The taxable commercial or industrial construction service defined under section 65(25b), inter alia, covers the repair, alternation, renovation or restoration of building/civil structures or similar services in relation to building or civil structure, which is not the case here. On the other hand, management, maintenance or repair service is defined in section 65(64).

▪ There is no doubt that the service was provided by the assessee in relation to maintenance or repair of immovable property in terms of the written agreement (lease deed) and, therefore, is covered under section 65(64). Thus the service rendered by the assessee is squarely covered in the definition of management, maintenance or repair. Therefore, the activities carried out by the assessee are taxable under section 65(64).

▪ It is seen that the charges collected by the assessee are on account of the taxable service provided by it and, therefore, constitute consideration for taxable service. Once the taxable service is being provided against a consideration, service tax becomes payable.

Case Laws: CESTAT, New Delhi Bench, Chhattisgarh State Industrial Development Corporation Ltd. v. Commissioner of Central Excise & Service Tax, Raipur
[2016] 71 taxmann.com 109 (New Delhi - CESTAT)

➲ **Assessee can claim refund of entire unutilized credit when he is only exporting services**

Formula provided in rule 5 of CENVAT Credit Rules for calculation of Cenvat refund amount is applicable only if assessee provides services in export as well as domestic market; in case of 100 per cent exporter, entire cenvat credit (including amounts brought forward) is to be refunded.

Rule 5 of the Cenvat Credit Rules, 2004 - Cenvat Credit - Refund of - Period April to June, 2012 - Assessee, a 100 per cent exporter of services, claimed refund of credit for quarter April-June 2012 - Department denied partial credit/refund of Rs. 6.23 lakh on ground that same was taken in February, 2012 (Jan-March, 2012) and could not be claimed as refund in quarter April-June 2012.

HELD :

Though credit was taken in February, 2012 : (a) same was lying in balance and was brought forward in April, 2012; (b) same was claimed as refund for first time in April-June, 2012 and no refund claim was made earlier - For cenvat refund purposes, 'net cenvat credit' would include amount of brought forward credit as well; hence, opening balance of April, 2012 will also be included in computation for April-June 2012 - Formula provided in notification for calculation of refund amount is applicable only if assessee provides services in export as well as domestic market - Since entire services were exported, entire credit availed is to be refunded - Hence, assessee being 100 per cent exporter, is entitled for refund of brought forward amount. [In favour of assessee]

Case Laws: CESTAT, Mumbai Bench, Q Logic India (P.) Ltd. v. Commissioner of Service Tax, Pune
[2016] 71 taxmann.com 217 (Mumbai - CESTAT)

SERVICE TAX

Notifications / Circulars

➲ CBEC exempts service tax on taxable services by way of transportation of goods by a vessel from outside India upto customs station in India with respect to which the invoice for the service has been issued on or before 31st May, 2016 subject to the condition of production of customs certified copy of the import manifest or import report required to be delivered under section 30 of the Customs Act, 1962 vide Notification No. 36/2016-Service Tax dt. 23-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st36-2016.pdf

➲ CBEC exempts taxable services from the whole of Krishi Kalyan Cess leviable thereon with respect to which the invoice for the service has been issued on or before 31st May, 2016 subject to the condition that the provision of the service has been completed on or before 31st May, 2016 vide Notification No. 35/2016-Service Tax dt. 23-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st35-2016.pdf

➲ Speedy disbursal of pending refund claims of exporters of services under rule 5 of the CENVAT Credit Rules, 2004 vide Circular No. 195/05/2016-ST, dated: 15-06-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-195-2016.pdf

➲ **Service Tax (Third Amendment) Rules, 2016**

CBEC seeks to inter alia provide composition rate for Krishi Kalyan Cess as applicable to ST under sub-rules 7,7A,7B,7C of rule 6 of STR, 1994 vide Notification No. 31/2016-Service Tax, dt. 26-05-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st31-2016.pdf

➲ CBEC amended Notification No. 12/2013- ST, dated the 1st July, 2013 so as to inter alia allow refund of Krishi Kalyan Cess paid on specified services used in an SEZ vide Notification No. 30/2016 [ST] 26-5-2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st30-2016.pdf

➲ **Service Tax - Notification No. 29/2016 [ST] 26-5-2016**

CBEC amended Notification No. 39/2012- ST, dated the 20th June, 2012 so as to provide for rebate of Krishi Kalyan Cess paid on all services, used in providing services exported in terms of rule 6A of the Service Tax Rules.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st29-2016.pdf

➲ **Service Tax - Notification No. 28/2016 [ST], dated:26-5-2016**

CBEC exempts such taxable services from whole of Krishi Kalyan Cess leviable thereon which are either exempt from the whole of service tax by a notification or otherwise not leviable to service tax. Further, the notification seeks to provide that abatement notification shall be applicable for computing Krishi Kalyan Cess.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st28-2016.pdf

➲ **Service Tax - Notification No. 27/2016 [ST] dt: 26-5-2016**

CBEC seeks to provide that provisions of notification No. 30/2012 - Service Tax dated the 20th June, 2012 shall be applicable for the purposes of Krishi Kalyan Cess.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st27-2016.pdf

➲ **Service Tax - Notification No. 26/2016 [ST], dated: 20-5-2016**

CBEC amended Notification No. 25/2012 – ST dated 20.6.2012, so as clarify the scope of Entry 48 to the said notification that the exemption from Service Tax to services provided by Government or a local authority to a business entity with a turnover up to rupees ten lakh in the preceding financial year, shall not be applicable in case of services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994 and renting of immovable property.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st26-2016.pdf

➲ **Service Tax - Notification No. 25/2016 [ST], dt. 17-5-2016**

Services provided by the specified organizations in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement.

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st25-2016.pdf

➲ **Clarification regarding leviability of service tax in respect of services provided by arbitral tribunal and members of such tribunal**

It has come to the notice of the Board that there is some confusion regarding the legal position with respect to continuance of reverse charge mechanism for services provided by arbitral tribunals and individual arbitrators on the arbitral tribunal, with effect from 1.4.2016.

Services provided by an arbitral tribunal to (i) any person other than a business entity; or (ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year, are exempt from services tax [Entry 6(a) of Notification No. 25/2012 – ST refers]. "Arbitral tribunal" has been assigned the same meaning in the exemption Notification No. 25/2012 – ST [paragraph 2(c)] as in clause (d) of Section 2 of the Arbitration and Conciliation Act 1996, which is as follows:-
"arbitral tribunal means a sole arbitrator or a panel of arbitrators"
2.2 In the Budget 2016-17, the entry at (c) of Sl. No. 6 of notification No.25/2012-ST, has been omitted with effect from 1.4.2016. It read as: "Services provided by a person represented on an arbitral tribunal to an arbitral tribunal."

The matter has been examined. It may be noted that the services provided or agreed to be provided by an arbitral tribunal to a business entity (turnover exceeding Rs. 10 lakh) located in the taxable territory, is taxable under reverse charge mechanism and recipient of service is liable to discharge service tax liability [Rule 2(d)(D)(I) of Service Tax Rules, 1994 and Notification No. 30/3012 – ST (Sl. No. 4) refer]. There is no change in the Budget 2016-17 with respect to the said provisions.

It could be argued that service provided by an arbitrator on the panel of arbitrators, to the arbitral tribunal is taxable under forward charge. However, this does not appear to be a correct interpretation of law. Any reference in Service Tax law to an "arbitral tribunal" necessarily includes the natural persons on the arbitral tribunal, by virtue of clause (d) of Section 2 of the Arbitration and Conciliation Act, 1996. Services are provided or agreed to be provided by the panel of arbitrators, as comprising the several natural persons on the said panel, to the business entity or to the arbitration institution approached by the business entity for purposes of arbitration. The liability to discharge service tax is on the service recipient, if it is a business entity located in the taxable territory with a turnover exceeding rupees ten lakh in the preceding financial year.

In view of the above, it is clarified that Service Tax liability for services provided by an arbitral tribunal (including the individual arbitrators of the tribunal) shall be on the service recipient if it is a business entity located in the taxable territory with a turnover exceeding rupees ten lakh in the preceding financial year.

Source: Circular No.193/03/2016-Service Tax, dated: 18th May, 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-193-2016.pdf

➲ **Accounting code for payment of Krishi Kalyan Cess** - *Circular No. 194/04/2016-ST, dated: 26-05-2016*

Read full notification at: http://www.cbec.gov.in/resources//htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-194-2016-revised.pdf

Case Laws:

➲ **Distribution, marketing and support services for software would not fall under intellectual property services**

Where assessee was wholly owned subsidiary of a company 'F' located in USA and it in terms of an agreement entered with 'F' paid royalty to 'F' for distribution, marketing and support of computer programme known as software product, services received by assessee from 'F' would not fall under category of 'intellectual property service'.
Section 65(55b), read with section 65(55a), of the Finance Act, 1994 - Intellectual property service - Assessment years 2005-06 to 2008-09 - Assessee was wholly owned subsidiary of a company 'F' located in USA - It in terms of an agreement entered with 'F' paid royalty to 'F' for distribution, marketing and support of computer programme known as software product - Adjudicating Authority held that services received by assessee from 'F' fell under category of 'intellectual property service' as defined under section 65(55b) and it was liable to pay service tax on royalty amount - Whether since assessee was wholly owned subsidiary of company 'F' and in terms of agreement no title or ownership of software product or any portion thereof was transferred to assessee, it was granted a non-exclusive, non-transferable licence to use software product solely for its own use and it was not allowed to sell, transfer, disclose software product or copies thereto to others, services received by assessee from 'F' would not fall under category of 'intellectual property service' - Held, yes. [In favour of assessee]

Case Laws: CESTAT, Mumbai Bench, Fluent India (P.) Ltd. v. Commissioner of Central Excise, Pune-I
[2016] 71 taxmann.com 174 (Mumbai - CESTAT)

➲ **Prize money paid to service provider for good performance isn't liable to service tax**

Where assessee provided site formation and clearance and excavation services to one 'S' and 'S' in terms of agreement supplied explosives and diesel oil free of cost to assessee for rendering services and also paid bonus to it for a good performance, Adjudicating Authority was wrong in including value of explosives and diesel oil and bonus received by assessee in assessable value of services.
Section 67, read with section 65(97a), of the Finance Act, 1994 - Valuation of taxable services - Period March, 2008 to March, 2012 - Assessee, in terms of an agreement entered with one 'S', provided site formation and clearance and excavation services to 'S' - Further 'S' supplied explosives and diesel oil free of cost to assessee for rendering services - Said agreement provided that if assessee consumed explosives and diesels over and above agreed quantity, a penalty was to be levied on it - Similarly if assessee used less quantity of explosives and diesels, it would be paid bonus/incentive by 'S' - Adjudicating Authority included value of explosives and diesel oil supplied free of cost to assessee and bonus received by assessee in assessable value of services and raised demand of tax against it - Whether in view of decision of Larger Bench of Tribunal rendered in case of Bhayana Builders (P.) Ltd. v.CST [2013] 38 taxmann.com 221/42 GST 76 (New Delhi - CESTAT), value of explosives and diesel oil supplied free of cost to assessee was not liable to be included in assessable value of services - Held, yes - Whether bonus given by 'S' to assessee for appreciating its performance in utilizing less quantum of explosives and diesel oil was more in nature of a prize money for a good performance by assessee and was in no way linked to value of services. Held, yes - Whether, therefore, bonus received by assessee was not liable to be included in assessable value of services - Held, yes [In favour of assessee]

Circulars and Notifications: Notification No. 15/2004-ST, dated 10-9-2004

Case Laws: CESTAT, Bangalore Bench, AMR India Ltd. v. Commissioner of Central Excise, Customs and Service Tax, Hyderabad-II [2016] 71 taxmann.com 175 (Bangalore - CESTAT)

INCOME TAX

Notifications / Circulars

➲ **Notification No. 47/2016 dated: 17th June, 2016**

In exercise of the powers conferred by sub-section (1F) of section 197A of the Income-tax Act, 1961 (43 of 1961) and in supersession of the notification of the Government of India, Ministry of Finance (Department of Revenue) number S.O. 3069 (E) dated 31st December, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), the Central Government notifies that no deduction of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified below, in case such payment is made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), excluding a foreign bank, or to any payment systems company authorised by the Reserve Bank of India under Sub-section (2) of Section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), namely :-
(i) bank guarantee commission;
(ii) cash management service charges;
(iii) depository charges on maintenance of DEMAT accounts;
(iv) charges for warehousing services for commodities;
(v) underwriting service charges;
(vi) clearing charges (MICR charges) including interchange fee or any other similar charges by whatever name called charged at the time of settlement or for clearing activities under the Payment and Settlement Systems Act, 2007;
(vii) credit card or debit card commission for transaction between merchant establishment and acquirer bank.

Read more at: http://pdicai.org/docs/Notification_No.47_2016_2362016112048580.pdf

➲ **No Deduction of Tax under Chapter XVII - Notification No. No.46 /2016, dated: 17-06-2016**

In exercise of the powers conferred by sub-section (1F) of section 197A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said 'Act'), the Central Government notifies that no deduction of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified in clause (23DA) of section 10 of the said Act received by any securitisation trust as defined in clause (d) of the Explanation to section 115TC of the said Act.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification462016.pdf

➲ **Income - tax (17th Amendment) Rules, 2016**

In the Income - tax Rules, 1962 (hereafter referred to as the said rules), after rule 37BB, the following rule shall be inserted, namely :
37BC - Relaxation from deduction of tax at higher rate under section 206AA

(1) In the case of a non - resident, not being a company, or a foreign company (hereafter referred to as 'the deductee') and not having permanent account number the provisions of section 206AA shall not apply in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, if the deductee furnishes the details and the documents specified in sub - rule (2) to the deductor.
(2) The deductee referred to in sub-rule(1), shall in respect of payments specified therein, furnish the following details and documents to the deductor, namely:
(i) name, e-mail id, contact number;
(ii) address in the country or specified territory outside India of which the deductee is a resident;
(iii) a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if the law of that country or specified territory provides for issuance of such certificate;
(iv) Tax Identification Number of the deductee in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.

Read the full notification at: http://www.incometaxindia.gov.in/communications/notification/notification532016.pdf

➲ **Procedure for online submission of statement of deduction of tax under sub-section (3) of section 200 and statement of collection of tax under proviso to sub-section (3) of section 206C of the Income-tax Act, 1961 read with rule 31A(5) and rule 31AA(5) of the Income-tax Rules, 1962 respectively vide Notification No. 11/2016 dated: 22 June 2016**

In exercise of power conferred by sub-rule (5) of rule 31A and sub-rule (5) of rule 31AA of the Rules, the Principal Director General of Income-tax (Systems) hereby lays down the following procedures of registration in the e-filing portal, the manner of the preparation of the statements and submission of the4 statements as follows:

The deductors/collectors will have the option of online filing of e-TDS/TCS returns through e-filing portal or submission at TIN Facilitation Centres. Procedure for filing e-TDS/TCS statement online through e-filing portal is as under.

a. **Registration:** The deductor/collector should hold valid TAN and is required to be registered in the e-filing website (https://incometaxindiaefiling.gov.in/) as "Tax Deductor & Collector" to file

the "e-TDS/e-TCS Return".

b. **Preparation:** The Return Preparation Utility (RPU) to prepare the TDS/TCs Statement and File Validation Utility (FVU) to validate the Statements can be downloaded from the tin-nsdl website (https://www.tin-nsdl.com/). The statement is required to be uploaded as a zip file and submitted using either Digital Signature Certificate (DSC) or Electronic Verification Code (EVC). For DSC mode, the signature for the zip file can be generated using the DSC Management Utility (available under Downloads in the e-Filing website http://incometaxindiaefiling.gov.in/). Alternatively, deductor/collector can e-Verify using EVC.

c. **Submission:** The deductor/collector is required to login to the e-filing website using TAN and go to TDS->Upload TDS. The deductor/collector is required to upload the "Zip" file along with the signature file (generated as explained in para (b) above) or EVC.

EVC can be generated using one of the following modes:

a. Net Banking-Principal contact person's net banking login (linked to the registered PAN) can be used to generate the EVC for the TAN of the deductor/collector.
b. Aadhar OTP-The principal contact person's PAN can be linked with AADHAAR to use this option.
c. Bank Account Number-The principal contact person can use his pre validated bank account details to avail this option.
d. Demat Account Number-The principal contact person can use his pre validated demat account details to avail this option.
This pre generated EVC can be used to e-Verify the TDS return.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification112016n.pdf

➲ **Income-tax (13th Amendment) Rules, 2016**

Income Tax Notification No - 39/2016, dated: May 31, 2016 Income-tax (13th Amendment) Rules, 2016. S.O.1923(E) - In exercise of the powers conferred by section 200 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 (13th Amendment) Rules, 2016. In the Income-tax Rules, 1962, in rule 29B, in rule 31A, in sub-rule (4A), for the words "seven days", the words "thirty days" shall be substituted; F.No.142/29/2015-TPL (R Lakshmi Narayanan) Under Secretary, (Tax Policy and Legislation).

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide notification number S.O.969(E), dated the 26th March, 1962 and last amended vide notification number S.O. 1655 (E), dated 05/05/2016.
Source: Income Tax - Notification No. 39/2016, dated: 31-5-2016

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification392016.pdf

➲ **Equalisation Levy Rules, 2016 - Notification No. 38/2016 dated: 27-5-2016**

In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 179 of the Finance Act, 2016 (28 of 2016), the Central Government hereby makes the following rules for carrying out the provisions of Chapter VIII of the said Act relating to Equalisation levy, namely the Equalisation levy Rules, 2016.

Rounding off of consideration for specified services, equalisation levy, etc.

The amount of consideration for specified services and the amount of Equalisation levy, interest and penalty payable, and the amount of refund due, under the provisions of Chapter VIII of the Act shall be rounded off to the nearest multiple of ten rupees and, for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.

Payment of Equalisation levy - Every assessee, who is required to deduct and pay equalisation levy, shall pay the amount of such levy to the credit of the Central Government by remitting it into the Reserve Bank of India or in any branch of the State Bank of India or of any authorised Bank accompanied by an equalisation levy challan.

Statement of specified services:

(1) The statement of specified services required to be furnished under sub-section (1) of section 167 of the Act shall be in Form No. 1, duly verified in the manner indicated therein, and may be furnished by the assessee in the following manner, namely:-
(i) electronically under digital signature; or
(ii) electronically through electronic verification code.
(2) The statement in Form No.1 in respect of all the specified services chargeable to equalisation levy during any financial year shall be furnished on or before the 30th June immediately following that financial year.
(3) The Principal Director-General of Income-tax (Systems) shall, for the purpose of ensuring secure capture and transmission of data, lay down the specific procedures, formats and standards and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the statement under sub-rule (1).
Explanation: For the purposes of this rule "electronic verification

code" means a code generated for the purpose of electronic verification of the person furnishing the statement of specified services as per the data structure and standards laid down by the Principal Director- General of Income-tax (Systems).

Time limit to be specified in the notice calling for statement of specified services - Where an assessee fails to furnish the statement within the time specified in sub-rule (2) of rule 5, the Assessing Officer may issue a notice to such person requiring him to furnish, within thirty days from the date of service of the notice, the statement in the Form prescribed in rule 5 and verified in the manner indicated therein.

Notice of demand - Where any levy, interest or penalty is payable in consequence of any order passed under the provisions of Chapter VIII of the Act, the Assessing Officer shall serve upon the assessee a notice of demand in Form No. 2 specifying the sum so payable:

Provided that where any sum is determined to be payable by the assessee under sub-section (1) of section 168 of the Act, the intimation under the said section shall be deemed to be a notice of demand.

Form of appeal to Commissioner of Income-tax (Appeals):

- An appeal under subsection (1) of section 174 of the Act to the Commissioner of Income-tax (Appeals) shall be made in Form No. 3 in the following manner, namely:-
  (i) electronically under digital signature; or
  (ii) electronically through electronic verification code.
- The form of appeal referred to in sub-rule (1), shall be verified by the person who is authorised to verify the statement of specified services under rule 5, as applicable to the assessee.
- Any document accompanying Form No.3 shall be furnished in the manner in which the Form No.3 is furnished.
- The Principal Director General of Income-tax (Systems) shall:

i. lay down the procedure for electronic filing of Form No.3;
ii. lay down 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 policies in relation to the said form so furnished.

Form of appeal to Appellate Tribunal:

An appeal under sub-section (1) or sub-section (2) of section 175 of the Act to the Appellate Tribunal shall be made in Form No.4, and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in Form No.4, as applicable to the assessee.
Read more at: http://www.incometaxindia.gov.in/communications/notification/notification382016.pdf

➲ Central Government appoints the 1st day of June, 2016 as the date on which Chapter VIII (EQUALISATION LEVY) of the Finance Act 2016 shall come into force.

Source: Notification No. 37/2016, dated: 27-5-2016

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification372016.pdf

➲ **The Direct Tax Dispute Resolution Scheme Rules, 2016**
Form of declaration and undertaking under section 203:

- The declaration under sub-section (1) of section 203 shall be made in duplicate in Form-1 to the designated authority and verified in the manner specified therein.
- The undertaking referred to in sub-section (4) of section 203 shall be furnished in Form-2 alongwith the declaration and verified in the manner specified therein.
- The declaration under sub-rule (1) and the undertaking under sub-rule (2), as the case may be, shall be signed by the declarant or any person competent to verify the return of income on his behalf in accordance with section 140 of the Income-tax Act, 1961.
- The designated authority on receipt of declaration shall issue a receipt in acknowledgement thereof.

Form of certificate under sub-section (1) of section 204 - The designated authority shall issue a certificate referred to in sub-section (1) of section 204 in Form-3.

Intimation of payment - The detail of payments alongwith proof thereof, made pursuant to the certificate issued by the designated authority shall be furnished by the declarant to the designated authority in Form-4.

Order under sub-section (2) of section 204 - The order by the designated authority under sub-section (2) of section 204 in respect of tax arrear shall be in Form-5 and in respect of specified tax shall be in Form-6.

Source: Notification No.35/2016 [F.No.142/11/2016-TPL] / SO 1903(E) dated: 26.5.2016

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification35_2016.pdf

➲ **Income Declaration Scheme Rules, 2016 - Notification No. 33/2016, dated: 19-5-2016**

In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 199 of the Finance Act, 2016 (28 of 2016),

the Central Board of Direct Taxes, subject to the control of the Central Government makes rules for carrying out the provisions of Chapter IX of the said Act relating to the Income Declaration Scheme, 2016 namely the Income Declaration Scheme Rules, 2016.

Determination of Fair market value:

(1) The fair market value of the asset shall be determined in the following manner, namely:— (a) the value of bullion, jewellery or precious stone shall be the higher of— (I) its cost of acquisition; and (II) the price such bullion, jewellery or precious stone shall ordinarily fetch if sold in the open market as on the 1st day of June, 2016, on the basis of the valuation report obtained by the declarant from a registered valuer; (b) the valuation of archaeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred to as artistic work) shall be the higher of:

(I) its cost of acquisition; and
(II) the price such artistic work shall ordinarily fetch if sold in the open market as on the 1st day of June, 2016 on the basis of the valuation report obtained by the declarant from a registered valuer.

Declaration of income or income in the form of investment in any asset:

(1) A declaration of income or income in the form of investment in any asset under section 183 shall be made in Form-1.
(2) The declaration shall be furnished:-
(a) electronically under digital signature; or
(b) through transmission of data in the form electronically under electronic verification code; or
(c) in print form, to the concerned Principal Commissioner or the Commissioner who has the jurisdiction over the declarant.

(3) The Principal Commissioner or the Commissioner shall issue an acknowledgement in Form-2 to the declarant within fifteen days from the end of the month in which the declaration under section 183 has been furnished.

(4) The proof of payment of tax, surcharge and penalty made pursuant to the acknowledgement issued by the Principal Commissioner or the Commissioner shall be furnished by the declarant to the such Principal Commissioner or Commissioner in Form 3.

(5) The Principal Commissioner or the Commissioner shall grant a certificate in Form-4 to the declarant within fifteen days of the submission of proof of payment of tax, surcharge along with penalty by the declarant under section 187 of the Act in respect of the income so declared.
(6) The Principal Director-General of Income-tax (Systems) or 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 the form in the manner specified in sub-rule (2).

Explanation — For the purposes of this rule "electronic verification code" means a code generated for the purpose of electronic verification of the person furnishing the return of income as per the data structure and standards specified by Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification33_2016.pdf

➲ Central Government notified 30-09-2016, 30-11-2016 and 30-09-2017 as the dates for make a declaration in respect of as the date on or before which the benamidar shall transfer to the declarant, being the person who provides the consideration for such asset, or his legal representative vide *Notification No. 32/2016, dated: 19-5-2016.*

Read more at: www.incometaxindia.gov.in/communications/notification/notification32_2016.pdf

➲ **Notification No. F. No.173/237/2016-ITA-I, dated: 6-5-2016**

Opertionalization of section 9A of the Income-tax Act, 1961 - Notifies the Committee for the purpose of rule 10VA (4).

Read more at: http://www.incometaxindia.gov.in/communications/notification/173.237.2016.pdf

➲ **Income Tax - Notification No. 31/2016, dated: 5-5-2016**

Income-tax (12th Amendment) Rules, 2016 - Amends Rule 29B - Relaxation from one of the conditions - Application for certificate authorizing receipt of interest and other sums without deduction of tax.
Read more at: http://www.incometaxindia.gov.in/communications/notification/notification31_2016.pdf

➲ **Income Tax - Notification No. 8/2016, dated: 4-5-2016**

Procedure for submission of Form 15CC by an authorized dealer in respect of remittances under sub-section (6) of section 195 of the Income-tax Act, 1961 read with rule 37BB of the Income-tax Rules, 1962.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification8_2016_n.pdf

➲ **Income Tax - Notification No. 7/2016, dated: 4-5-2016**

Procedure for online submission of declaration by person claiming receipt of certain incomes without deduction of tax in Form 15G/15H under sub-section (1) or under sub-section (1A) of section 197A of the Income-tax Act, 1961 read with Rule 29C of Income-tax Rules, 1962.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification7_2016.pdf

➲ **Income Tax - Notification No. 6/2016, dated: 4-5-2016**

Procedure for online submission of statement of deduction of tax under sub-section (3) of section 200 and statement of collection of tax under proviso to sub-section (3) of section 206C of the Income-tax Act, 1961 read with rule 31A (5) and rule 31AA (5) of the Income-tax Rules, 1962 respectively.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification6_2016n.pdf

➲ **Circular No. 13/2016, dated: 9th May 2016**

Verification of tax-returns for Assessment Years 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 through EVC which are pending due to non-filing of ITR-V Form and processing of such retruns.

Read more at: http://www.incometaxindia.gov.in/communications/circular/circular13_2016.pdf

➲ **Digital reporting of Form No. 60**

1. Vide Notification No.95, dated 30th December, 2015, rules 114B, 114C and 114D of the Income-tax Rules, 1962 (the Rules) were amended and have come into force from the 1st day of January, 2016.

2. The amended rules inter-alia provide for furnishing of a statement in Form No.61, containing particulars of declaration made in Form No.60, through online transmission of data electronically. The statement in Form No.61 is to be provided by every person referred to in clause (b) to (k) of sub-rule (1) of rule 114C and in sub- rule (2) of Rule 114C, and who is required to get his accounts audited under section 44AB of the Income-tax Act, 1961. Sub-rule (2) of rule 114D mandates that online statement in Form No.61 should be furnished by:
a) 31st October of that year, where the declarations are received by the 30th September; and
b) 30th April of the financial year immediately following the financial year in which the form is received, where the declarations are received by the 31st March.

3. It has been brought to the notice of the Central Board of Direct Taxes (the Board) by various stakeholders that hardship is being faced in complying with online submission of statement in Form No.61, containing particulars of declaration made in Form No.60.

4. In view of the above, it is decided that filling of all the fields in Form No.60 shall be considered to be mandatory in respect of transactions entered on or after 1.04.2016. It is also decided that online reporting of declarations in Form No. 61 for quarter ending March, 2016 may be done along with report for quarter ending September, 2016.

Source: Circular No. 14 /2016 [F.No.370149/68/2016-TPL], dated: 18th May, 2016

Read more at: http://www.incometaxindia.gov.in/communications/circular/circular14_2016.pdf

➲ **Explanatory Notes on Provisions of The Income Declaration Scheme, 2016 as provided In Chapter IX of The Finance Act, 2016**

The Income Declaration Scheme, 2016 (referred to here as 'the Scheme') is contained in the Finance Act, 2016, which received the assent of the President on the 14th of May 2016. The Scheme provides an opportunity to persons who have paid not full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all to forty-five per cent of such undisclosed income declared.

Scope of the Scheme:

A declaration under the aforesaid Scheme may be made in respect of any income or income in the form of investment in any asset located in India and acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year 2017-18 for which the declarant had, either failed to furnish a return under section 139 of the Income-tax Act, or failed to disclose such income in a return furnished before the date of commencement of the Scheme, or such income had escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on 1st June, 2016 computed in accordance with Rule 3 of the Income Declaration Scheme Rules, 2016 shall be deemed to be the undisclosed income.

Rate of tax, surcharge and penalty:

The person making a declaration under the Scheme would be liable to pay tax at the rate of 30 percent of the value of such undisclosed

income as increased by surcharge at the rate of 25 percent of such tax. In addition, he would also be liable to pay penalty at the rate of 25 percent of such tax. Therefore, the declarant would be liable to pay a total of 45 percent of the value of the undisclosed income declared by him. This special rate of tax, surcharge and penalty specified in the Scheme will override any rate or rates specified under the provisions of the Income-tax Act or the annual Finance Acts.

Read more at: http://www.incometaxindia.gov.in/communications/circular/circular16_2016.pdf

Source: Circular No. 16 of 2016 [F.No.370142/8/2016-TPL] dated: 20th May, 2016

Case Laws:

➲ **Where assessee claimed excessive unabsorbed depreciation in terms of Explanation to section 115JB while computing book profits under section 115JB, levy of penalty under section 271(1)(c) had to be upheld**

FACTS:

• For MAT purposes, assessee adjusted brought-forward depreciation reported in assessment year 2005-06, even though it was fully set off against reserves (i.e. accumulated profits) and argued that reference to amount of loss/depreciation for MAT computation be as referred in P&L account of assessment year 2005-06 in preference over balance sheet as on March 31, 2005 (which had no carried forward losses on account of set off against accumulated profit from earlier year).
• Assessing Officer levied penalty under section 271(1)(c) for excessive claim of depreciation.
• Commissioner(Appeals) confirmed penalty.
• On appeal to the Tribunal:

HELD:

• The language of relevant provision is very clear and there exists no ambiguity so as to admit interpretation sought by assessee. Reference to either profit and loss account or balance-sheet is only for the purpose of ascertaining the loss, if any, brought forward as per the books of account, this is as there has to be one figure (of unabsorbed losses or depreciation) as per books of accounts. Reference to one (profit and loss account) in preference to the other (balance-sheet), as does the assessee, is misleading. All that one needs to look at is at the balance of the profit and loss account as at the end of the immediately preceding year, or, equally at the beginning of the current year, and which would reflect the profit or, as the case may be, loss carried forward to, i.e., brought forward from the immediately preceding year, the current year. Loss only will go to add to the amount of loss carried forward or reduce the amount of profit carried forward, thus when the loss is so adjusted, there is no carry backward of loss. Thus, the levy of penalty under section 271(1)(c) for assessee's excessive claim of unabsorbed depreciation in terms of Explanation to section 115JB while computing book profits under section 115JB for assessment year 2006-07 had to be upheld.

Source: In the ITAT Mumbai Bench 'E', SBI DFHI Ltd. v. Assistant Commissioner of Income-tax, Range-2 (1), Mumbai [2016] 71 taxmann.com 178 (Mumbai - Trib.)

➲ **IT: Leasehold rights on land do not fall in category of intangible asset as defined under section 32(1) (ii), hence do not qualify for allowance of depreciation;**

IT: Where no expenditure had been incurred by assessee for purpose of earning dividend income from mutual funds, question of disallowance under section 14A did not arise

I. Section 32 of the Income-tax Act, 1961 - Depreciation - Allowance/rate of (Intangible asset) - Assessment year 2008-09 - Whether leasehold rights on land do not fall in category of intangible asset as defined under section 32(1)(ii) - Held, yes - Whether by virtue of lease only an interest in land is created which does not qualify for allowance of depreciation - Held, yes. [In favour of revenue]

II. Section 14A of the Income-tax Act, 1961, read with rule 8 of the Income-tax Rules, 1962 - Expenditure incurred in relation to income not includible in total income (Dividends) - Assessment year 2008-09 - Assessing Officer noticed that assessee had made deposit in mutual funds and earned dividend therefrom - He inferred that borrowed funds had been utilised for purpose of making investment in mutual funds and, accordingly, made disallowance under section 14A treating expenses incurred towards earning of exempt income - Assessee claimed that no expenditure had been incurred for purpose of earning dividend income of mutual fund - Whether since Assessing Officer had not rendered any finding that claim of assessee was incorrect, matter required readjudication because if assessee-company had not incurred any expenditure, question of disallowance under section 14A did not arise - Held, yes. [In favour of assessee/Matter remanded]

FACTS - I:

▪ The assessee company was engaged in the business of development and maintenance of infrastructure facilities for software and related sectors. For this purpose, it had taken land on lease for a period of 66 years from Software Technological Park of India (STPI). In consideration of granting the leasehold rights, assessee-company had developed 42,665 sq.ft. of space for use by STPI in terms of agreement entered into by it with STPI. The cost of development of this space was treated as cost of leasehold rights and treating it as intangible asset, depreciation was claimed on this.

▪ On scrutiny assessment, the Assessing Officer disallowed depreciation claim on leasehold property.
▪ On appeal, the Commissioner (Appeals) confirmed the disallowance of depreciation.
▪ On appeal to the Tribunal:

HELD - I:

▪ In this ground of appeal, it is to be adjudicated whether the leasehold rights fall within the term and scope of expression 'intangible asset' as defined under the provisions of section 32(1)(ii). There is no dispute about the cost of acquisition. The only dispute is with regard to nature of the asset acquired. Whether leasehold rights partake character of land or intangible asset. Intangible asset has been defined under section 32(1)(ii) being knowhow, patents, copy rights, trade marks, license, franchises or any other business or commercial rights of similar nature. Obviously, leasehold rights on land do not fall in the category of above categories. It does not fall even in residuary category of any other business or commercial rights of similar nature. Because the term 'rights of similar nature' qualifies that even to fall under residuary clause, it should be in the nature of above know-how, patents, copy-rights, trade marks license or franchise. Applying the rule of ejusdem generis even to fall within the residuary category it should be in the nature of rights enumerated above. Further, definition of the term 'immovable property' is given in section 3(26) of the General Clauses Act and states that it shall include land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to earth. Right of enjoyment to immovable property under a lease is immovable property within the meaning given in section 103 of the Transfer of Property Act. Under section 105 of the Transfer of Property Act, a lease creates a right or an interest in the enjoyment of the land property.
▪ Having referred to the above legal position, it is to be held that by virtue of lease only an interest in land is created which does not qualify for allowance of depreciation.

FACTS - II:

▪ The assessee company was engaged in the business of development and maintenance of infrastructure facilities for software and related sectors. It had made a deposit in HDFC Mutual Funds.
▪ During the course of assessment proceedings, the Assessing Officer noticed that the assessee earned dividend from HDFC Mutual Funds. He inferred that borrowed funds had been utilized for the purpose of making investment in HDFC mutual funds and, accordingly, made disallowance under section 14A treating the expenses incurred towards earning of exempt income. The assessee's contention that no borrowed funds were utilized was rejected by the Assessing Officer.
▪ On appeal, the Commissioner (Appeals) directed the Assessing Officer to consider disallowance under rule 8D(2)(iii).
▪ On appeal to the Tribunal

HELD - II:

▪ It is the claim of the assessee-company that no expenditure was incurred for the purpose of earning dividend income of HDFC Mutual Fund. It was contended that no interest bearing funds were utilized for the purpose of making investment in HDFC Mutual Funds. However, the Assessing Officer, taking note of the negative balance in the bank, after making investment in mutual funds, inferred that borrowed funds were utilized. However, it is settled proposition of law that where common pool of funds were utilized for making investment should be inferred that investments are out of own funds. The Assessing Officer has not rendered any finding whether the claim of the assessee is incorrect. When the assessee-company had not incurred any expenditure, the question of disallowance under section 14A does not arise. Therefore, this ground of appeal is remitted back to the file of the Assessing Officer for fresh adjudication in accordance with law.

▪ In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Case Laws: In the ITAT Bangalore Bench 'C', Cyber Park Development & Construction Ltd. v. Deputy Commissioner of Income-tax, Circle 11(2), Bangalore [2016] 71 taxmann.com 210 (Bangalore - Trib.)

➲ **Where assessee, a charitable trust, made contribution to another trust which was carrying on religious activities, contribution so made was hit by provisions of section 13(1)(b) and, thus, assessee's claim for exemption under section 11 in respect of same, was to be rejected**

Section 13, read with section 11 of the Income-tax Act, 1961 - Charitable or religious trust - Denial of exemption (Sub-section (1)(b)) - Assessment years 2009-10 and 2010-11 - Whether where assessee, a charitable trust, made contribution to another trust which was carrying on religious activities, contribution so made was hit by provisions of section 13(1)(b) and, thus, assessee's claim for exemption under section 11 in respect of same, was to be rejected - Held, yes [In favour of revenue]

FACTS:

▪ During relevant year, assessee trust made certain contribution to another trust namely 'L'. The assessee claimed exemption under section 11 in respect of said contribution.
▪ The Assessing Officer noticed that assessee was a charitable trust and it made contribution to 'L' which was a religious institution. He thus took a view that contribution was directly hit by provisions of section 13(1)(b), which debars the charitable institutions from existing for a particular religious community. Accordingly, assessee's claim for exemption was denied.

▪ The Commissioner (Appeals) upheld the order of Assessing Officer.
▪ On second appeal:

HELD:

▪ Admittedly, the assessee has given donation to 'L'. The plea of the department is that 'L' is not engaged in the charitable activities, on the other hand, it is engaged in advancing money to various provinces of the Christian Missionary and it is for religious purpose. As per the provisions of the section 11(1), the assessee is under legal obligation to apply the income to the extent of 85 per cent for charitable purpose or religious purpose for which the trust was established. Thereafter, this provision also enables the charitable or religious trust to accumulate or set apart only 15 per cent of income for which the assessee shall give a notice to the Assessing Officer in a prescribed manner indicating the purpose for which the income is accumulated or set apart and the period for which such income is so accumulated or set apart. Such amount has to be deposited in the manner and form as provided in section 11(5) and Explanation to section 11(2) and section 11(3) makes exception to the section 11(2).

▪ Explanation to section 11(2) and clause (d) of section 11(3), inserted by the Finance Act, 2002 with effect from April 1, 2003 says that income which was accumulated as provided in section 11(2) if credited or paid to another trust or institution registered under section 12AA or approved under section 10(23C) shall be deemed to be the income of such person of the previous year in which such credit was made or paid as the case may be.

▪ Section 11(3A) empowers the Assessing Officer to allow the trust to apply the income so accumulated for other charitable or religious purpose other than the one for which the same is accumulated or set apart. However, the proviso to section 11(3A) mandates that the Assessing Officer shall not allow the application of income by way of payment or credit for the purposes referred to in clause (d) of sub-section (3) of section 11. Therefore, in view of the latest development of law with effect from 1-4-2003, if the income is paid or credited to another trust or institution even though they are registered under section 12AA or approved under section 10(23C), the same has to be treated as income of the assessee.

▪ It is well settled that section 13(1)(b) would be applicable only to the trusts which is purely for charitable purpose. Even if a trust is for charitable as well as religious purpose, the section 13(1)(b) would not be applicable. Admittedly, the assessee trust is a charitable. Therefore, section 13(1)(b) would be applicable.

▪ In this case, there is no dispute that the assessee has advanced money in this assessment year to 'L', which is a religious trust. The assessee, is registered under section 12A as a charitable trust. The assessee pleaded that a charitable trust could also carry on the religious activities and the assessee could be treated as a trust carrying on religious and charitable activities. This proposition of assessee cannot be accepted. The assessee is registered as charitable trust and its objective should be solely concentrated to the charitable activities only. The charitable trust carry on those objects which are enlisted in its object clause could spend its income for that purpose only. Though assessee agreed that the assessee is a charitable trust, it made a plea that religious activities is also permitted to be carried on. However, charitable trust cannot carry on religious activities. As such the donation given to activities carried on by the assessee to another trust, which in turn related to the religious activities, then the assessee is hit by provisions of the section 13(1)(b). Being so, the assessee cannot be granted the exemption under section 11, though the assessee donated to religious trust out of its income of relevant year.

▪ It is needless to say herein that any charity donation out of accumulated funds is not possible after 1-4-2002 as it is hit by section 11(3)(d). However, this is not the case here. The Tribunal is concerned herein about donation out of current income to another institution with religious objects cannot be considered as application of income for charitable purpose. In other words, the charitable trust cannot donate to the trust which is formed for religious purpose. With this observation, the appeal of assessee is dismissed.

Case Laws: In the ITAT Chennai Bench 'A', Little Flower Educational Society v. Income-tax Officer, Company Ward-I, Coimbatore [2016] 71 taxmann.com 153 (Chennai - Trib.)

➲ **Where seller sold goods to assessee (buyer) and under contract of sale it was bound to send goods to buyer and to pay transportation charges to goods transport agency and assessee reimbursed freight component to seller and claimed deduction of same, assessee was not liable to deduct tax at source under section 194C in respect of freight component**

Section 194C, read with section 40(a)(ia), of the Income-tax Act, 1961 - Deduction of tax at source - Contractors/sub-contractors, payments to (Transportation charges) - Assessment year 2006-07 - A seller sold certain goods to assessee (buyer) - Under contract of sale, seller was bound to send goods to buyer and to pay transportation charges to goods transport agency - It was, however, entitled to recover transportation charges from buyer - Assessee reimbursed freight component to seller and claimed deduction of same - Tribunal held that assessee was liable to deduct tax at source as per section 194C in respect of freight component and since assessee had failed to do so, lower authorities had rightly disallowed freight component as per section 40(a)(ia) - Whether in instant case it was seller who was responsible for paying transportation charges - Held, yes - Whether, therefore, assessee was not liable to deduct tax at source under section 194C in respect of freight component - Held, yes [In favour of assessee]

FACTS:

▪ During the year 2006-07, a seller had sold certain goods to the assessee (buyer). Under the contract of sale, the seller was bound to send the goods to the buyer and to pay the transportation charges to the goods transport agency. It was, however, entitled to recover the transportation charges from the buyer.
▪ The assessee reimbursed the freight component to the seller and claimed deduction of the same.
▪ The Tribunal held that the assessee was liable to deduct tax at source as per section 194C in respect of freight component. Since the assessee had failed to deduct tax at source in respect thereof, the lower authorities were justified in disallowing the freight component as per section 40(a)(ia).
▪ On appeal to High Court:

HELD:

▪ Under the contract of sale, the seller was bound to send the goods to the buyer. The price list goes to show that it was bound to pay the transportation charges to the goods transport agency. It was, however, entitled to recover the same from the buyer. Hence, the assessee has merely reimbursed the cost of transportation incurred by the seller. The question naturally in the facts of the case is as to who was liable to deduct the tax at source.
▪ From a combined reading of the provisions of section 194C, it would appear that any person responsible for paying any sum to any resident on account of carriage of goods shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to —(iii) one per cent in case of advertising,
(iv) in any other case two per cent,
of such sum as income-tax on income comprised therein.
Therefore, the relevant question to be asked is, who was responsible for paying any sum to any resident for carriage of goods. The answer obviously is that it was the seller who was responsible for paying and the seller admits to have done that. Therefore, the liability to deduct tax was that of the seller. In case seller is unable to show that he had made the deduction, section 40(a)(ia) may be applied to his case but not to the case of the buyer/assessee.
▪ Even assuming that the supplier in transporting the goods to the assessee acted as an agent of the assessee and the assessee has reimbursed the freight charges to the supplier, who in turn has paid to the concerned transporter as held by the Tribunal is conceptually correct, no other conclusion is possible. The agent being the supplier in the instant case has admittedly paid to the transporter and has also deducted tax at source. When the agent has complied with the provision, the principal cannot be visited with penal consequences. For one payment there could not have been two deductions. Moreover when a person acts through another, in law, he acts himself.

▪ In view of the aforesaid, the assessee was not liable to deduct tax at source in respect of the freight component. When the assessee was not liable to make any deduction under section 194C, the rigours of section 40(a)(ia) could not have been applied to it.

Case Laws: High Court of Calcutta, High tension Switchgears (P.) Ltd. v. Commissioner of Income-tax [2016] 71 taxmann.com 207 (Calcutta)

➲ **In view of specific language of section 43B, amount of customs and excise duty on value of closing stock should be allowed as deduction in assessment year relating to previous year in which it was actually paid even though assessment of closing stock of that year would be in subsequent assessment year**

Section 43B, read with sections 145A and 263, of the Income-tax Act, 1961 - Business disallowance - Certain deductions to be allowed only on actual payment (Excise duty) - Assessment year 2004-05 - Whether in view of specific language of section 43B, amount of customs and excise duty on value of closing stock should be allowed as deduction in assessment year relating to previous year in which it was actually paid even though assessment of closing stock of that year would be in subsequent assessment year - Held, yes - Whether non-obstante clause in section 43B has overriding effect over any other provisions of Income-tax Act and it could not be accepted that by virtue of section 145A, Parliament had diluted or nullified effect of provisions of section 43B providing for deductions – Held yes [In favour of assessee]

FACTS:

▪ The assessee filed its return of income as on 1-11-2004 declaring the total income of Rs. 48.61 crores. The Assessing Officer, after considering the material on record allowed the deduction under section 43B of Rs. 82.35 lakhs towards Excise duty pertaining to closing stock and passed assessment order under section 143(3).
▪ The Commissioner issued notice under section 263 to revise assessment order by stating that it was erroneous and prejudicial to interests of revenue as according to him the assessee was not entitled for deduction of excise duty from the net profit as per profit and loss account for the purposes of computation of profits and gains from business and profession as the excise duty and educational cess amounting to Rs. 82.35 lakhs had not been paid during the relevant previous year. Thus, the total income had been short computed by a sum of Rs. 82.35 lakhs resulting in short levy of tax of Rs. 29.54 lakhs. Accordingly, a sum of Rs. 82.35 lakhs was liable to be added to the income originally assessed under section 43B.
▪ On appeal, the Tribunal found that the assessee had paid the excise duty before due date and the excise duty so paid was allowable under section 43B. The Tribunal also found that the view taken by the Assessing Officer at the time of assessment was permissible view and therefore the Commissioner was not justified in directing the Assessing Officer to add a sum of Rs. 82.35 lakhs under section 43B. Resultantly the direction given by

the Commissioner was cancelled and the appeal was allowed.
▪ On appeal by revenue to the High Court:

HELD:

▪ In the case of Lakhanpal National Ltd. v. ITO [1986] 162 ITR 240/27 Taxman 462, the High Court of Gujarat had an occasion to consider the question for admissibility of the deduction under section 43B. After considering section 43B, it was observed that in view of specific language of section 43B, amount of customs and excise duty on value of closing stock should be allowed as deduction in assessment year relating to previous year in which it was actually paid even though assessment of closing stock of that year would be in subsequent assessment year.

▪ The aforesaid shows that the deduction from the excise duty paid on the closing stock was found permissible under section 43B. One of the contentions in the above referred decision of the Gujarat High Court as to the revenue was that, if such a deduction is allowed, it may result into double deduction which has not been found favour in the above referred decision.

▪ Once again in the decision of the Apex Court in case ofBerger Paints India Ltd. v. CIT [2004] 266 ITR 99/135 Taxman 586 the question came up for consideration before the Apex Court for permissibility of deduction under section 43B and the decision of the High Court of Gujarat in the case of Lakhanpal National Ltd. (supra) was pressed into service as against the view taken by High Court of Calcutta.

▪ The Apex Court, after considering the various decisions of the different High Courts expressly observed that the entire amount of excise duty/customs duty paid by the assessee in a particular accounting year was an allowable deduction in respect of that year irrespective of the amount of excise duty/customs duty which was included in the valuation of the assessee's closing stock at the end of the accounting year.

▪ The revenue has attempted to distinguish the judgment of Gujarat High Court on the futile ground that the judgment of Gujarat High Court was one rendered in connection with a provisional assessment order under section 141A and not in a regular assessment. However, this distinction is hardly acceptable. In any event, a reading of Gujarat High Court judgment shows that the judgment is not based merely on the permissible ground under section 141A as contended by the revenue but the judgment proceeds on the analysis under section 43B and hence, a finding that entire amount of excise duty/custom duty paid by the assessee in a particular accounting year was an allowable deduction in respect of that year irrespective of the amount of excise duty/customs duty which was included in the valuation of the assessee's closing stock at the end of the accounting year. After coming to the conclusion, the Gujarat High Court then proceeded to consider the impact of section 141A and granted appropriate relief thereunder. It is not possible to accept the contention of the revenue that the judgment of Gujarat High Court inLakhanpal National Ltd. case (supra) is distinguishable on the ground put forward.

▪ Therefore, the Commissioner, the Tribunal and the Calcutta High Court erred in permitting the revenue to raise the contention contrary to what was laid by the Gujarat High Court in Lakhanpal National Ltd. case (supra).

▪ Thereafter, the judgment of Calcutta High Court was set aside and based on the decision of High Court of Gujarat in Lakhanpal National Ltd. case (supra), the question was answered in favour of the assessee and against the revenue.

▪ After the above referred decision of the Apex Court in case of Berger Paints India Ltd. (supra), the decision of the Calcutta High Court upon which reliance has been placed by the revenue need not be referred to.

▪ If the controversy is considered as it is, one can say that the subject was covered by the decision of the Apex Court in case of Berger Paints India Ltd. (supra). However, the appellant-revenue attempted to make two distinguishable circumstances for contending that the matter is not covered by the decision of the Apex Court in case of Berger Paints India Ltd. (supra). His attempt was twofold, one was on the ground that, the actual payment of the central excise duty was not made by the assessee before the end of accounting year i.e. 31st March and the another was that, section 145A at the relevant point of time was not on the statute book when the Apex Court rendered the decision in case of Berger Paints India Ltd. (supra). Therefore, he submitted that in view of these two peculiar circumstances, this Court may not hold that the matter is covered by the decision of the Apex Court in case of Berger Paints India Ltd.(supra).

▪ The second limb of submission that the payment was not made prior to 31st March in the present case but in the case before the Apex Court and before the Gujarat High Court in case of Lakhanpal (supra), the payment was already made prior to 31st March of the respective year, would not detain the court further because in the impugned order passed by the Tribunal, such a contention was raised and has rendered a finding of fact that the assessee has paid excise duty before the due date and the excise duty so paid is allowable under section 43B.

▪ In view of the aforesaid finding of the Tribunal for the payment already made before the outer limit is covered by proviso to section 43B. Hence, it would be allowable deduction under section 43B which has been so found by the Tribunal. Under the circumstances, the said submission cannot be accepted of the revenue.

▪ The first limb of argument that section 145A was not on the statute

book at the relevant point of time and, therefore, this Court may take a different view by not holding that the matter is covered by the decision of the Apex Court in case of Berger Paints India Ltd. (supra) may require consideration of the effect of section 43Bvis-à-vis section 145A and to find out as to whether by insertion of section 145A on the statute book, the effect of the allowable deduction under section 43B is diluted or nullified or not. The language of section 43B begins with the word 'Notwithstanding anything contained in any other provisions of this Act' meaning thereby a non-obstante clause to have an overriding effect over any other provisions of the Act.

▪ Further, if language used under section 145A is considered, the language is 'Notwithstanding anything to the contrary contained in section 145' meaning thereby by diluting the effect of section 145, the additional provision is made under section 145A. The confrontation of the situation under section 145 vis-à-vis section 145A is not required to be examined. The scope and ambit of section 145 and section 145A needs to be addressed in the present matter. But, even if the contention of the revenue is considered for the sake of examination for providing a particular or peculiar method for accounting under section 145 as well as under section 145A, then also as per language used ofnon-obstante clause over any other provisions of the Act under section 43B, it cannot be accepted that by virtue of section 145A, the Parliament has diluted or nullified the effect of provisions of section 43B providing for certain deductions.

▪ Under the circumstances, the distinction as sought to be canvassed to come out from the law already settled by the Apex Court in case of Berger Paints India Ltd.(supra) is without any substance and cannot be accepted.

▪ In view of the aforesaid observations and discussion, the resultant situation would be that the deduction so claimed and made permissible by the Tribunal in the impugned order is covered by the decision of Gujarat High Court in case of Lakhanpal National Ltd. case (supra), read with the further decision of the Apex Court in case of Berger Paints India Ltd. (supra). Hence, on the aspects of allowable deduction, the matter was already covered by in any case the decision of the Apex Court in case of Berger Paints India Ltd. (supra). The said legal position was prevailing at the time when the Assessing Officer allowed the deduction. Hence, it could not be said that the view taken by the Assessing Officer was erroneous in law. In any case, the treatment is to be given in the opening stock of the subsequent accounting year when the deduction is made under section 43B of the Act, hence it could also not be said as prejudicial to the interest of revenue.

▪ Under the circumstances, the view taken by the Tribunal holding that the Commissioner was not justified in passing the order under section 263 cannot be said as illegal but, can rather be said to be in conformity with the law laid down by the Apex Court in case of Berger Paints India Ltd. (supra).

▪ In view of the above observation and discussion, the impugned order passed by the Tribunal does not call for any interference. Appeal disposed of accordingly.

Case Laws: High Court of Karnataka, Commissioner of Income-tax, Bangalore v. NCR Corporation India (P.) Ltd.

COMPANY LAW

Notifications / Circulars:

➲ **Companies (Authorised to Register) Amendment Rules 2016**

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with section 366 of the Companies Act, 2013 (18 of 2013), Central Government makes rules further to amend the Companies (Authorised to Registered) Rules, 2014, namely the Companies (Authorised to Register) Amendment Rules, 2016.

Read more at: http://www.mca.gov.in/Ministry/pdf/NotificationOrder_01062016.pdf

Source: Notification No. F. No. 1/35/2013 CL-V, dated: 31-5-2016

➲ **Companies (Corporate Social Responsibility Policy) Amendment Rules, 2016**

In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government makes rules further to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2016. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, for sub-rule (2), the following sub-rule shall be substituted, namely:—

"(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through:

(a) a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or alongwith any other company, or

(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature :

Provided that- if, the Board of a company decides to undertake

its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects; and the company has specified the projects or programs to be undertaken, the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism".

Source: Notification No. [F. No. 05/12/2016-CSR-Cell], dated: 23.05. 2016

Read more at: http://www.mca.gov.in/Ministry/pdf/Notification_CSR_30052016.pdf

➲ **Companies (Registration Offices and Fees) Amendment Rules, 2016**

In exercise of the powers conferred by section 399 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government makes rules to amend the Companies (Registration Offices and Fees) Rules, 2014, namely the Companies (Registration Offices and Fees) Amendment Rules, 2016.

Read more at: http://www.mca.gov.in/Ministry/pdf/Rules_09052016.pdf

SEBI

Notifications / Circulars:

➲ **Investor Protection Fund (IPF) of Depositories**

The Depository System Review Committee (DSRC) had examined various aspects of the depository IPF including utilization and investment policy of IPF and quantum of funds to be transferred to IPF. The Expert Committee on Clearing Corporations also deliberated the issue with regard to quantum of funds to be transferred by the Depositories to their IPF.

SEBI (Depositories and Participants) (Amendment) Regulations, 2012 require every depository to establish and maintain an Investor Protection Fund (IPF). Pursuant to the aforesaid committee recommendations, the SEBI (Depositories and Participants) Regulations were amended mandating the depositories to credit five per cent or such percentage as may be specified by the Board, of its profits from depository operations every year to the IPF.

Based on recommendations of DSRC and Expert Committee on Clearing Corporations, the following guidelines are being issued with regard to IPF of the Depositories.

Utilization of the IPF:

The IPF may be utilized for the following purposes with a focus on depository related services:

i. Promotion of investor education and investor awareness programmes through seminars, lectures, workshops, publications (print and electronic media), training programmes etc. aimed at enhancing securities market literacy and promoting retail participation in securities market.

ii. To aid, assist, subsidise, support, promote and foster research activities for promotion/ development of the securities market.

iii. To utilize the fund for supporting initiatives of Depository Participants for promotion of investor education and investor awareness programmes.

iv. To utilize the fund in any other manner as may be prescribed/ permitted by SEBI in the interest of investors.

Source: Circular - SEBI/HO/MRD/DP/CIR/P/2016/58 June 07, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1465305439512.pdf

➲ **Know Your Client (KYC) norms for ODI subscribers, transferability of ODIs, reporting of suspicious transactions, periodic review of systems and modified ODI reporting format**

In terms of the SEBI (Foreign Portfolio Investors) Regulation, 2014 (FPI Regulations)and circulars issued from time to time regarding ODI, the Foreign Portfolio Investors (FPIs) issuing ODIs (hereinafter referred to as ODI Issuers)are required to comply with the conditions for issuance of ODIs.

The systems and procedures adopted by the ODI Issuers to comply withsuch conditions, vary from one ODI Issuer to another. In order to bring about uniformity and increasethe transparency in this regard, SEBI had held discussions with the stakeholders. Taking into consideration the inputs received during the discussion process, SEBI Board in its meeting held on May 19, 2016 decided that ODI Issuers shall be guided by the following provisions with regard to the norms relating to the issuance and transfer of ODIs:

(1) Applicability of Indian KYC/AML norms for Client Due Diligence

SEBI vide circular No. CIR/IMD/FIIC/20/ 2014 dated November 24, 2014 had aligned the applicable eligibility and investment norms of FPI regime with norms applicable for subscription through the ODI route.

With regards to KYC of ODI subscribers, ODI Issuers shall now be required to identify and verify the beneficial owners (BO) in the subscriber entities, who hold in excess of the threshold as defined under Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 i.e. 25 % in case of a company and 15 % in case of partnership firms/ trusts/ unincorporated bodies. ODI issuers shall also be required to identify and verify the person(s) who control the operations,when no beneficial owner is identified based on the aforesaid materiality threshold.

(2) KYC Review

The KYC review shall be done on the basis of the risk criteria as determined by the ODI issuers, as follows:

(a) At the time of on-boarding and once every three years for low risk clients.

(b) At the time of on-boarding and every year for all other clients. It is clarified that in case of existing ODI Subscriber, the KYC review should be done within three years for low risk clients and one year for all other clients from the effective date of this circular and accordingly reported in revised ODI reporting format.

(3) Suspicious Transactions Report

ODI Issuers shall be required to file suspicious transaction reports, if any, with the Indian Financial Intelligence Unit, in relation to the ODIs issued by it.

(4) Reporting of complete transfer trail of ODIs

Presently, the details of the holder of ODIs have to be mandatorily reported to SEBI on a monthly basis. The ODI issuers are also required to capture the details of all the transfers of the ODIs issued by them and these can be made available to SEBI on demand. The Board decided that in the monthly reports on ODIs all the intermediate transfers during the month would also be required to be reported.

(5) Reconfirmation of ODI positions

ODI Issuers shall be required to carry out reconfirmation of the ODI positions on a semi-annual basis. In case of any divergence from reported monthly data, the same should be informed to SEBI in format provided.

(6) Periodic Operational Evaluation

ODI Issuers shall be required to put in place necessary systems and carry out a periodical review and evaluation of its controls, systems and procedures with respect to the ODIs. A certificate in this regard should be submitted on an annual basis to SEBI by the Chief Executive Officer or equivalent of the ODI Issuer. The said certificate should be filed within one month from the close of every calendar year.

This circular shall come into effect from July 01, 2016. The reporting of the ODI in new format shall be applicable from the month of July 2016 to be submitted on or before August 10, 2016. This circular is issued in exercise of powers conferred under SEBI Section 11 (1) of the Securities and Exchange Board of India Act, 1992.

Source: Circular CIR/IMD/FPI&C/59/2016, dated: June 10, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1465796415786.pdf

➲ **Review of the framework of position limits for currency derivatives contracts**

With the view to ease trading requirements in the currency derivatives segment, it is clarified that the position limit linked to open interest shall be applicable at the time of opening a position. Such positions shall not be required to be unwound in the event of a drop of total open interest in a currency pair at the stock exchange. However, in the aforementioned scenario, the eligible market participants shall not be allowed to increase their existing positions or create new positions in the currency pair till they comply with the applicable position limits.

Notwithstanding the above, in view of risk management or surveillance concerns with regard to such positions of the market participants, stock exchanges may direct the market participants to bring down their positions to comply with the applicable position limits within the time period prescribed by the stock exchange.

Accordingly, para 14 of the SEBI circular CIR/MRD/DP/20/2014 dated June 20, 2014 shall stand modified

Stock exchanges and Clearing corporations are directed to:
(a) take necessary steps to put in place systems for implementation of the circular, including necessary amendments to the relevant bye-laws, rules and regulations.
(b) bring the provisions of this circular to the notice of the stock brokers / clearing members and also disseminate the same on their website;
(c) communicate to SEBI the status of implementation of the provisions of this circular.

Source: Circular - SEBI/HO/MRD/DP/CIR/P/2016/60, dated: June 22, 2016

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1466596412445.pdf

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