the CMA e-Bulletin

MARCH 2016 | VOL. 4 | NO. 3

The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

www.icmai.in

the CMA e-Bulletin

www.icmai.in

DIRECTORATE OF RESEARCH & JOURNAL

The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

President: CMA Pramodkumar Vithaldasji Bhattad

Vice President: CMA Manas Kumar Thakur

Chairman, Research, Journal and IT Committee: CMA Avijit Goswami

Editor: CMA Dr Debaprosanna Nandy

MARCH 2016 | VOL. 4 | NO. 3

CONTENTS

Please send your feedback on the **CMA e Bulletin** at: cma.ebulletin@icmai.in

INDIAN ECONOMY

➲ **Manufacturing sector growth returns to expansion in February: SBI Index**

Manufacturing activity in the country bounced back and entered the expansion territory in February, says a report. The yearly SBI Composite Index for February is at 51.3, compared to last month index of 47.3. Meanwhile, the monthly Index declined to 49.5 in February, from 52.4 in January 2016. The index captures two components of the manufacturing cycle, namely, month-on-month and year-on-year growth on a scale of 0 to 100. Index above 50 implies growth over previous respective period and less than 50 suggest a contraction over a respective period.

Read more at: http://economictimes.indiatimes.com/news/economy/indicators/manufacturing-sector-growth-returns-to-expansion-in-february-sbi-index/articleshow/51122440.cms

➲ **Core sectors growth up 2.9% in January**

Growth in the eight core sectors jumped to a three-month high of 2.9 per cent in January due to sharp pick-up in coal, cement and electricity generation.

The eight core industries --- coal, crude oil, natural gas, refinery products, fertilisers, steel, cement and electricity --- comprising nearly 38 per cent of India's total industrial production had grown at 2.3 per cent in January last year. In October 2015, the sectors had witnessed a growth of 3.2 per cent.

Coal, cement and electricity generation grew by 9.1 per cent, 9 per cent and 6 per cent, respectively, during the month under review from 0.9 per cent, 0.2 per cent and 3.3 per cent in January 2015.

Read more at: http://economictimes.indiatimes.com/news/economy/indicators/core-sectors-growth-up-2-9-in-january/articleshow/51195888.cms

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

India's industrial output contracted at an annual rate of 1.5 percent in January, government data showed. Economists surveyed by Reuters had forecast output would shrink by 0.5 percent compared with a 1.3 percent year-on-year fall in December.

Read more at: http://in.reuters.com/article/india-economy-output-idINKCN0WD1BJ

➲ **Retail inflation for February down at 5.18%, from 5.69% in January**

After rising for five months in a row, retail inflation in February fell to 3-month low of 5.18 per cent as food prices including vegetables, pulses and fruits became less costly. Retail inflation, as measured by the Consumer Price Index (CPI), was at 5.69 per cent in January this year. In February last year, it stood at 5.37 per cent. The rate of price rise last month was the slowest since November, when the inflation print was 5.41 per cent.

Read more at: http://articles.economictimes.indiatimes.com/2016-03-14/news/71509641_1_retail-inflation-price-rise-pulses

➲ **Exports in February dip 5.66% to $20.73 billion; imports down 5.03% at $27.28 billion**

India's exports in February fell 5.6% from a year earlier to $20.73 billion - declining for the 15th consecutive month - while a contraction in imports narrowed the trade gap to a year's low.

In February, imports fell 5.03% to $27.28 billion, leaving a trade deficit of $7.63 billion, provisional data released by the Ministry of Commerce & Industry showed. The last time the gap was lower was in February 2015 at $6.54 billion. Gold imports declined almost 29.5% to $1.39 billion last month compared with an 85% increase in January.

Read more at: http://articles.economictimes.indiatimes.com/2016-03-15/news/71543201_1_oil-imports-gold-imports-oil-meal-exports

➲ **India's wholesale prices fall for 15th straight month in January**

Wholesale prices fell for a 15th straight month in January, declining an annual 0.90 percent, driven down by tumbling oil prices, government data showed. The pace of fall, however, was slower than a 0.15 percent annual decline forecast by economists in a Reuters poll. In December, the index fell a provisional 0.73 percent.

The wholesale fuel prices dropped 9.21 percent from a year ago in January, while prices of manufactured goods declined 1.17 percent year on year. Food prices last month, however, gained 6.02 percent year-on-year, compared with a provisional 8.17 percent gain in December.

Read more at: http://in.reuters.com/article/india-inflation-wpi-idINKCN0VO0JQ

➲ **Growth in India's services activity at 19-month high in January - PMI**

Activity in India's services sector increased at its fastest pace in

over a year and a half in January as demand accelerated, allowing firms to build up a much bigger backlog of orders, a business survey showed.

Read more at: http://in.reuters.com/article/india-economy-pmi-services-idINKCN0VC0V9

BANKING

➲ **Foreign Direct Investment –Reporting under FDI Scheme, Mandatory filing of form ARF, FCGPR and FCTRS on e-Biz platform and discontinuation of physical filing from February 8, 2016**

With a view to promoting the ease of reporting of transactions related to Foreign Direct Investment (FDI), the Reserve Bank of India, under the aegis of the e-Biz project of the Government of India has enabled online filing of the following returns with the Reserve Bank of India viz.

- Advance Remittance Form (ARF) which is used by the companies to report the FDI inflows to RBI;
- FCGPR Form which a company submits to RBI for reporting the issue of eligible instruments to the overseas investor against the above mentioned FDI inflow; and
- FCTRS Form which is submitted to RBI for transfer of securities between resident and person outside India.

At present both the options, i.e. online filing and physical filing of abovementioned forms, are available to the users. Based on the experience it has been decided that beginning February 8, 2016 the physical filing of forms ARF, FCGPR and FC-TRS will be discontinued and forms submitted in online mode only through e-Biz portal will be accepted.

Source: Notification No. RBI/2015-16/303 [A.P. (DIR Series) Circular No. 40] dated: February 01, 2016

➲ **Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR**

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 25 dated November 05, 2015 wherein the Rupee value of the Special Currency Basket was indicated as Rs. 78.1657270 effective from October 28, 2015. AD Category-I banks are advised that a further revision has taken place on January 20, 2016 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs. 80.9604520 with effect from January 25, 2016.

Source: Notification No. RBI/2015-16/305 [A.P. (DIR Series) Circular No. 41] dated: February 04, 2016

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

The Ministry of Corporate Affairs (MCA), Government of India has notified the Companies (Indian Accounting Standards) Rules, 2015 on February 16, 2015. A reference is also invited to the Press Release dated January 18, 2016 issued by the MCA outlining the roadmap for implementation of International Financial Reporting Standards (IFRS) converged Indian Accounting Standards for banks, non-banking financial companies, select All India Term Lending and Refinancing Institutions and insurance entities.
In this connection, it is advised that scheduled commercial banks (excluding RRBs) shall follow the Indian Accounting Standards as notified under the Companies (Indian Accounting Standards) Rules, 2015, subject to any guideline or direction issued by the Reserve Bank in this regard, in the following manner:

i. Banks shall comply with the Indian Accounting Standards (Ind AS) for financial statements for accounting periods beginning from April 1, 2018 onwards, with comparatives for the periods ending March 31, 2018 or thereafter. Ind AS shall be applicable to both standalone financial statements and consolidated financial statements. "Comparatives" shall mean comparative figures for the preceding accounting period.
ii. Banks shall apply Ind AS only as per the above timelines and shall not be permitted to adopt Ind AS earlier.

Banks are advised to take note of the Press Release dated January 18, 2016 issued by the MCA which states that notwithstanding the roadmap for companies, the holding, subsidiary, joint venture or associate companies of banks shall be required to prepare Ind AS based financial statements for accounting periods beginning from April 1, 2018 onwards, with comparatives for the periods ending March 31, 2018 and thereafter.

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10274&Mode=0

Source: *Notification No. RBI/2015-16/315 [DBR.BP.BC. No.76/21.07.001/2015-16] dated: February 11, 2016*

➲ **Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools and LCR Disclosure Standards**

Circulars DBOD.BP.BC.No.120/21.04.098/2013-14 dated June 9, 2014 and DBR.BP.BC.No.52/21.04.098/2014-15 dated November 28, 2014 describes 'Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools and LCR Disclosure Standards'. Presently, the assets allowed as the Level 1 High Quality Liquid Assets (HQLAs) for the purpose of computing the LCR of banks, inter alia, include Government securities in excess of the minimum SLR requirement, and within the mandatory SLR requirement, Government securities to the

extent allowed by RBI, under Marginal Standing Facility (MSF) [presently 2 per cent of the bank's NDTL] and under Facility to Avail Liquidity for Liquidity Coverage Ratio (FALLCR) [presently 5 per cent of the bank's NDTL]

It has been decided that henceforth, in addition to the above-mentioned assets, banks will be permitted to reckon government securities held by them up to another 3per cent of their NDTL under FALLCR within the mandatory SLR requirement as level 1 HQLA for the purpose of computing their LCR. Hence the total carve-out from SLR available to banks would be 10 per cent of their NDTL. For this purpose, banks should continue to value such reckoned government securities within the mandatory SLR requirement at an amount no greater than their current market value (irrespective of the category of holding the security, i.e., HTM, AFS or HFT).

Source: *Notification No. RBI/2015-16/320 [DBR. BP. BC. No. 77/21.04.098/2015-16] dated: February 11, 2016*

➲ **Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit**

The Government of India has announced the Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit to eligible exporters. The scheme is effective from April 1, 2015. The details of the scheme are enclosed. Accordingly, scheduled Urban Cooperative Banks holding AD Category I licences are eligible under the Scheme and are advised to adhere to the following operational procedure for claiming reimbursement:

A. Procedure for passing on the benefit of interest equalization to exporters:

(i) For the period April 1, 2015 to January 31, 2016 banks shall identify the eligible exporters as per the Government of India scheme and credit their accounts with the eligible amount of interest equalisation.
(ii) From the month of February 2016 onwards, banks shall reduce the interest rate charged to the eligible exporters as per our extant guidelines on interest rates on advances by the rate of interest equalisation provided by Government of India.
(iii) The interest equalisation benefit will be available from the date of disbursement up to the date of repayment or up to the date beyond which the outstanding export credit becomes overdue. However, the interest equalisation will be available to the eligible exporters only during the period the scheme is in force.

B. Procedure for claiming reimbursement of interest equalisation benefit already passed on to eligible exporters:

(i) The sector-wise consolidated reimbursement claim for the period April 1, 2015 to January 31, 2016 for the amount of interest equalisation already passed on to eligible exporters should be submitted to RBI by February 29, 2016.

(ii) The sector-wise consolidated monthly reimbursement claim for interest equalisation for the period February 2016 onwards should be submitted in original within 15 days from the end of the respective month, with bank's seal and signed by authorised person, in the prescribed format.

(iii) The claims should be accompanied by an External Auditor's Certificate (with stamp and membership number) certifying that the claim for interest equalisation of Rupees…….. for the month ended …….. has been verified and found to be strictly in accordance with the provisions of the Government scheme enclosed with the circular DCBR.CO.SCB.Cir. No.1/13.05.000/2015-16 dated February 11, 2016. Claims for reimbursement will be considered for settlement only after receipt of this certificate.

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx-?Id=10281&Mode=0

Source: *Notification No. RBI/2015-16/322 [DCBR.CO.SCB.Cir. No. 1/13.05.000/2015-16] dated: February 11, 2016*

➲ **Regulatory relaxations for start-ups- Clarifications relating to acceptance of payments**

Pursuant to paragraph 14 of the Sixth Bi-Monthly Monetary Policy Statement for 2015-16, Reserve Bank of India vide Press Release dated February 2, 2016, had announced that in case of start-ups, to facilitate ease of doing business, certain permissible transactions under the existing regime shall be clarified. One of the issues relate to the start-ups accepting payment on behalf of overseas subsidiaries.

In this connection, it is clarified as under:

a. A start-up in India with an overseas subsidiary is permitted to open foreign currency account abroad to pool the foreign exchange earnings out of the exports/sales made by the concerned start-up;
b. The overseas subsidiary of the start-up is also permitted to pool its receivables arising from the transactions with the residents in India as well as the transactions with the non-residents abroad into the said foreign currency account opened abroad in the name of the start-up;
c. The balances in the said foreign currency account as due to the Indian start-up should be repatriated to India within a period as applicable to realisation of export proceeds (currently nine months);
d. A start-up is also permitted to avail of the facility for realising the receivables of its overseas subsidiary or making the above repatriation through Online Payment Gateway Service Providers

(OPGSPs) for value not exceeding USD 10,000 (US Dollar ten thousand) or up to such limit as may be permitted by the Reserve Bank of India from time to time under this facility; and;
e. To facilitate the above arrangement, an appropriate contractual arrangement between the start-up, its overseas subsidiary and the customers concerned should be in place.

Source: *Notification No. RBI/2015-16/318, A.P. (DIR Series) Circular No. 51 dated: February 11, 2016*

➲ **NBFC – Factors (Reserve Bank) Directions, 2012 – Review**

The Reserve Bank of India had reviewed the guidelines on provision of factoring services by banks and specified certain conditions under which banks can departmentally undertake factoring activities. To ensure against regulatory gaps/ arbitrage if any, arising from differential regulations as between NBFC-Factors and banks, the following clarifications/ instructions are being issued to NBFC – Factors for meticulous compliance.

Prudential Norms : Identification as NPA: It is clarified that receivable acquired by an NBFC- Factor which is not paid within such period of its due date, as applicable in terms of Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 or Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 or Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, should be treated as Non-Performing Asset (NPA) irrespective of when the receivable was acquired by the NBFC - Factor or whether the factoring was carried out on "with recourse" basis or "non-recourse" basis.

Exposure Norms-Single and Group Borrower Limits : It is clarified that for the purpose of compliance with concentration of credit norms, exposure shall be reckoned as under:
a. In case of factoring on "with-recourse" basis, the exposure would be reckoned on the assignor.
b. In case of factoring on "without-recourse" basis, the exposure would be reckoned on the debtor, irrespective of credit risk cover/ protection provided, except in cases of international factoring where the entire credit risk has been assumed by the import factor.

Risk Management: Proper and adequate control and reporting mechanisms should be put in place before such business is undertaken.
a. NBFC-Factors should carry out a thorough credit appraisal of the debtors before entering into any factoring arrangement or prior to establishing lines of credit with the export factor.
b. Factoring services should be extended in respect of invoices which represent genuine trade transactions.
c. Since under without recourse factoring transactions, the factor is underwriting the credit risk on the debtor, there should be a clearly laid down board-approved limit for all such underwriting commitments.

Exchange of Information: For the purpose of exchange of information, the assignor will be deemed to be the borrower. Factors and banks should share information about common borrowers. Factors must ensure to intimate the limits sanctioned to the borrower to the concerned banks/ NBFCs and details of debts factored to avoid double financing.

Source: *Notification No. RBI/2015-16/326 [DNBR.CC.PD. No.074/03.10.01/2015-16] dated: February 18, 2016*

➲ **Future approach towards monitoring of frauds in NBFCs**

In reference to circulars DNBS.PD.CC.No.127/ 03.10.42/2008-09 dated August 14, 2008, DNBS.PD.CC.No.256/03.10.042/2011-12, dated: March 02, 2012 and DNBS.PD.CC.No.314/03.10.042/2012-13 dated December 13, 2012 on the captioned subject. It has been decided to revise the threshold for reporting of frauds and submission of quarterly progress reports on frauds to Central Fraud Monitoring Cell, Reserve Bank of India, Department of Banking Supervision, from Rs. 25 lakh as on date to Rs. 1 crore with immediate effect.

As regard reporting of frauds and submission of quarterly progress reports on frauds below the revised threshold, NBFCs will have to furnish the same to the Regional Office of Reserve Bank of India, Department of Non-Banking Supervision under whose jurisdiction the Registered Office of the NBFC falls.

Source: Notification No. RBI/2015-16/327 [DNBR (PD) CC.No.075/03.10.001/2015-16] dated: February 18, 2016

➲ **Alteration in the name of "Bank Internasional Indonesia" to "PT Bank Maybank Indonesia TBK" in the Second Schedule to the RBI Act, 1934**

The name of "Bank Internasional Indonesia" has been changed to "PT Bank Maybank Indonesia TBK" in the Second Schedule to the Reserve Bank of India Act, 1934 vide Notification DBR. IBD. No.7721/ 23.13.047/201-16 dated December 14, 2015 and published in the Gazette of India (Part III Section 4) dated February 13 - February 19, 2016 - *Notification No. RBI/2015-16/329 [DBR. No.Ret.BC.80/12.07.104A/2015-16] dated: February 25, 2016.*

Read more at: https://rbi.org.in/scripts/FS_Notification.aspx?Id=10291&fn=2&Mode=0

➲ **Review of Prudential Guidelines - Revitalising Stressed Assets in the Economy**

The Reserve Bank of India has issued various guidelines aimed at revitalising the stressed assets in the economy. The measures taken by the Reserve Bank include Strategic Debt Restructuring Mechanism, Framework to Revitalise the Distressed Assets in the Economy, Revisions to the Guidelines on Restructuring of Advances by Banks, Flexible structuring of Long Term Project Loans and amendments to guidelines on Sale of Financial Assets to Securitisation Companies (SC) / Reconstruction Companies (SC). On a review of these guidelines, and based on feedback received from stakeholders, it has been decided to partly modify, and also clarify, some aspects of the guidelines.

Source: Notification No. RBI/2015-16/330 [DBR.BP.BC. No.82/21.04.132/2015-16] dated: February 25, 2016

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10293&Mode=0

CUSTOMS

Notifications:

➲ **Customs duty on electricity imported or cleared from SEZ to DTA**

Customs duty on import of electricity has been imposed @ 100 paisa per KWH except for import from Nepal, Bhutan and SEZ vide *Notification No. 09/2016-Cus,dt. 16-02-2016.*

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs09-2016

➲ Supersedes Notification No. 3/89-Cus dated 9-1-1989, Grants Exemption of Customs duty to goods temporarily imported into India for display or use at specified events vide *Notification No. 8/2016 – Customs, dated: 5th February, 2016.*

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs08-2016

➲ Sikta in West Champaran District, Bihar on Road connecting Sikta in West Champaran District, Bihar in India and Bhiswabazar in Nepal has been appointed as land customs station for the clearance of all goods or any class of goods imported or exported by land vide *Notification No.28/2016-Cus dated 18th February 2016.*

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt28-2016

➲ Village Jattipur, near Samalkha, Panipat has been appointed as Customs Port for Unloading of imported goods and loading of export goods vide *Notification No.27/2016-Cus dated 18-02-2016.*

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt27-2016

➲ Rate of exchange of conversion of the foreign currency with effect from 19th February, 2016 vide *Notification No. 29/2016-Cus (NT),dt. 18-02-2016.*

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt29-2016

➲ Tariff Notification in respect of Fixation of Tariff Value of Edible Oil, Brass, Poppy Seed, Areca Nut, Gold and Sliver.

Source: Notification No. 25/2016-Cus (NT),dt. 15-02-2016

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt25-2016

Circulars:

➲ **Amendments effective 11.2.2016 to the All Industry Rates of Duty Drawback**

The Government considered representations; feedback and data related to the All Industry Rates (AIR) of Duty Drawback that took effect on 23.11.2015 and has notified certain changes vide Notification No. 22/2016-Customs (N.T.) dated 08.2.2016. These changes take effect from 11.02.2016. The changes made, inter-alia, include:

(a) AIR of drawback is being provided to rice packed in PP/HDPE bags;

(b) Separate tariff entries with AIRs (including caps) are being created for "hair-on" varieties of mats/carpets and other articles under heading 4303; for yarns of cotton blended with MMF under heading 5206; fabrics of MMF blended with wool under heading 5515; jackets/blazers of cotton containing 1% or more by weight of elastane under headings 610302/610402/620302/620402; blankets of MMF under heading 6301; flat-rolled products of stainless steel of thickness of 0.25 mm or less under heading 7220; hollow drill bars and rods of non-alloy steel under heading 7228; cages under heading 8482;

(c) Sub-headings under four digit heads of 8409, 8413, 8481 and 8708 are being restructured to distinguish drawback caps for products exported;

(d) Descriptions of certain tariff items are being amended to include certain products, for example, „notebooks are being

included in tariff items 482006 and 482007. The tariff items 610403 and 620403 are being expanded to include „dresses, skirts, undivided skirts. In tariff items 741998 and 741999, „bushes are being also shown to address classification issue.

(e) Drawback rates/caps are being increased for tariff items 560802 (fishing nets) and 950610 (sports nets). All footwear of headings 6401 and 6402 is being provided with composite AIRs.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ06-2016cs.pdf;jsessionid=3F91509588EA7D1AFE3A80C3D1597282

Source: Circular No. 06/2016 - Customs, dated: 9th February, 2016

➲ **Procedure for investigation of related party import cases and other cases by the Special Valuation Branches**

The Board has reviewed the practice relating to levy of 'Extra Duty Deposits' (EDD) in cases where SVB investigations are undertaken. It has been taken into consideration that 'Extra Duty Deposit' @ 1% of declared assessable value is being obtained from the importer for a period of 4 months during which time he is required to submit required documents and information to the SVB. In the event of his failing to do so, the EDD can be increased to 5% till such time the importer complies. Upon the importer complying with the requisition for documents and information, Circular 11/2001 – Cus dated 23.2.2001 provides that EDD shall be discontinued, while imports will continue to be assessed provisionally till the completion of investigations. In other words, the imports were continued to be assessed provisionally on the basis of a PD Bond but without any EDD. It has also been noted that many importers have represented on delays in dispensing of EDD, even though they have provided the required information and a period of 4 months has passed without the case having been decided. Therefore, the Board has decided that while reference to SVB requires the assessments to be provisional, for the sake of reducing transaction cost and bringing uniformity across Customs Houses, no security in the form of EDD shall be obtained from the importers. However, if the importer fails to provide documents and information required for SVB inquiries, within 60 days of such requisition, security deposit at a rate of 5% of the declared assessable value shall be imposed by the Commissioner for a period not exceeding the next three months.

Simultaneously, the importer shall be granted a further period of 60 days to comply with the requisition for information & documents. If the importer fails to submit documents within this extended period, the Commissioner in charge of SVB may consider the use of other provisions of the Customs Act for obtaining documents / information from an importer for conducting investigations. In no case shall the imposition of Security Deposit exceed the period of three months specified above. Furthermore, the Board has also decided that the importer would be free to choose whether the Security Deposit to be provided for the purposes of provisional assessment shall be by way of cash deposit or a Bank Guarantee.
It has also been decided that the existing system of adjudication, wherein the proper officer of the SVB passed an appealable order followed by the assessing officer passing another corresponding order finalizing provisional assessments should be replaced. It has now been decided that the SVB shall not issue an appealable order. Instead, the SVB shall convey its investigative findings by way of an Investigation Report to the referring customs formation for finalizing the provisional assessments. This would obviate multiple streams of appeals for the trade.

During consultations with field formations, it has been reported that while circular 11/2001- Cus dated 23.2.2001 cast the responsibility upon the Commissioner to carefully examine whether a case merits SVB investigations, lack of adequate information at the stage of assessment did not facilitate making a judicious decision on whether a case needs to be referred to SVB or not. Accordingly, it has been decided to introduce a questionnaire to be filled by the importer, which would enable the jurisdictional Commissioner to take a decision on whether a case needs to be referred to SVB for investigations.

The Board has also decided that in order to ensure that only cases with significant revenue implications are taken up for SVB investigations, the following cases shall not be taken up for inquiries by SVBs :

(i) Import of samples and prototypes from related sellers
(ii) Imports from related sellers where duty chargeable (including additional duty of Customs etc.) is unconditionally fully exempted or nil.
(iii) Any transaction where the value of imported goods is less than Rs 1 lack but cumulatively these transactions do not exceed Rs 25 lacks in any financial year.

Source: Circular No. 5 /2016 –Customs dated: 9th February 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ05-2016cs.pdf;jsessionid=54F57A5650AF100449598D4A4D6C3D8C

➲ **Procedure for renewal of SVB orders and ongoing SVB inquiries under circular no. 11/2001 - Cus dated 23rd February 2001**

The Board has comprehensively revised instructions for the examination of related party transactions and those involving royalty, licence fee etc. vide circular no. 5 /2016 dated 9th February2016. In view thereof, the Board has decided that the certain procedure to be followed with respect to pending SVB cases initiated in terms of circular 1/98 – Cus dated 1.1.98 and

11/2001-Cus, dated 23.2.2001 and those involving renewal of SVB orders.
In order to facilitate quick disposal of cases currently pending with SVBs for renewal, a system of one-time declaration is being provided. Importers, in respect of whom SVB orders are pending renewal, shall submit to the jurisdictional SVB, a declaration in the prescribed formats by 31st May 2016.

Source: Circular No. 04/2016 [F. No. 465/12/2010-Cus V], dt: 09.02.2016

Read the full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ04-2016cs.pdf

➲ **Extending the Indian Customs Single Window to other locations and other Participating Government Agencies**

The Central Board of Excise and Customs has taken-up the task of implementing 'Indian Customs Single Window Project' to facilitate trade. This project envisages that the importers and exporters would electronically lodge their Customs clearance documents at a single point only with the Customs. The required permission, if any, from other regulatory agencies (such as Animal Quarantine, Plant Quarantine, Drug Controller, Textile Committee etc.) would be obtained online without the importer/ exporter having to separately approach these agencies. This would be possible through a common, seamlessly integrated IT systems utilized by all regulatory agencies and the importers/ exporters. The Single Window would thus provide the importers/exporters a single point interface for Customs clearance of import and export goods thereby reducing interface with Governmental agencies, dwell time and cost of doing business.

Source: Circular No. 3/2016 - Customs, dated 03/ 02/2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ03-2016cs.pdf

Instructions:

➲ **Single Window Project-Problems in clearance of Ex-Bond Bills of Entry in on-line clearance facility**

In reference to the Single Window NOC Module launched at major Customs locations with effect from 5th February, 2016, it has been brought to notice of Board that after implementation of Single Window NOC Module, ex-bond Bills of Entry are getting referred to Participating Government Agencies (PGAs) for No Objection Certificate even though the same goods had received NOC from PGA at the time of warehousing i.e. at the into bond Bill of Entry stage.

Now CBEC has decided that all regulatory checks shall be applied at the into bond stage for a Bill of Entry for Warehousing. However, in-case of imported goods, of a nature in respect of which it may not be feasible for PGA to give NOC immediately then such goods, may be allowed facility of section 49 of the Customs Act, 1962, till such time the issue of NOC is decided.

Source: Instruction F.No.450/147/2015-CUSIV dated 26/02/2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-instructions/cs-instructions-2016/cs-ins-swp-online-clearance-prob.pdf;jsessionid=96F9E795A85D6CDEB9F19E78853B843D

➲ **Process of extension of re-warehousing period of Bonded capital goods**

The STP/EOU/EHTP Units are premises bonded under Section 58 read with Section 65 of the Customs Act, 1962. Capital Goods imported by these units are bonded for the periods provided under Section 61. The License of the Private Bonded Warehouse is granted by the jurisdictional Assistant Commissioner or Deputy Commissioner in terms of Section 58 for a period of five years. Further, the warehousing period in respect of the capital goods lying in the warehouse under the provisions of Section 61 of the Customs Act, 1962 is for a period of 5 years from the date of bonding. Trade has represented that the renewal of the Private Bonded Warehouse License and the extension of warehousing period for the bonded capital goods are not coterminous. This creates difficulties for them, as they have to approach authorities at the different times for extension of period.

For ease of understanding by the field formations, the operative part of the said circular is reproduced below:

The EOU/ EHTP/STP units are required to obtain private bonded warehousing licence u/s 58 of the Customs Act. The said licence is valid for a period of 5 years and the units are required to apply for renewal after every 5 years. The Board in order to obviate the difficulties of the EOU/EHTP/STP units has decided to allow extension of warehousing of all the capital goods installed or put into use, simultaneously at the time of renewal of warehousing licences irrespective of the fact that the capital goods are due for extension or not. The period of extension would be allowed for such a period so that the capital goods need further extension only on the date of renewal of warehousing license. The period of extension, therefore may be adjusted accordingly for every piece of capital goods. However the maximum period of extension at a time would not be allowed for a period for more than five years.

Source: *Instruction No. DGEP/FTP/07/2015, Govt. of India, Ministry of Finance, Department of Revenue, CBEC, dated: 15.02.2016*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-instructions/cs-instructions-2016/cs-ins-extn-rewarehousing-period.pdf;j

CENTRAL EXCISE

Notifications:

➲ **CBEC amended CENVAT Credit Rules, 2004**

CBEC amended CENVAT Credit Rules, 2004, so as to:

i. specify that the Cenvat credit of any duty specified in sub-rule (1) shall not be utilized for payment of the Swachh Bharat Cess;
ii. allow credit of service tax paid on sale of dutiable goods on commission basis.

Read more at: http://www.cbec.gov.in/htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent02-2016

Source: Notification No. 02/2016-CENT dt. 03-02-2016

➲ CBEC amended Notification No. 45/2001 - CE (NT) dated 26th June, 2001, to allow export of material/equipment under bond, without payment of Central Excise duty, for Kholongchhu Hydro-Electric Project (KHEP) in Bhutan.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent03-2016-revised2.pdf

Source: Notification No. 03/2016-CENT dt. 03-02-2016

Circulars:

➲ **Inclusion of show cause notice's issued in relation to levy of CVD on vessels imported for breaking in the "Call-Book"**

Read full notification at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1014-2016cx.pdf;jsessionid=76EE76457D96A0E98443B2E47E3229E0

Source: Circular No: 1014/2/2016-CX, dated: 01-Feb-2016

➲ **Refund of Excise duty on purchase of cars by physically handicapped persons**

CBEC has directed that when a handicapped person approaches the Central Excise office for refund of duty paid on the vehicle, he should be advised that refund application should be filed within one year of payment of duty, irrespective of availability of certificate from the Line Ministry so that such claims are not time barred. The Officer processing the refund in turn should issue a deficiency memo, if the said certificate is not available. On submission of the Certificate, refund can be processed and sanctioned. Interest would be payable only for period beyond three months from submission of the complete application with the certificate from the Line Ministry.

Source: Circular No.1015/3/2016-CX, dated: 03.02.2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1015-2016cx.pdf;jsessionid=D3915CEF5FA34C0D46A41BED51213E25

➲ **Change in rate of interest on goods warehoused for export, when cleared to DTA**

Reduction in interest rate i.e. from 24% to 15% p.a. on goods, warehoused for export, when diverted for home-consumption vide *Circular No. 1019/7/2016-CX dated 29th Feb 2016.*

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1019-2016cx.pdf;jsessionid=50DC6DA4225415991ED975A8DC7E605E

➲ **Registration of two or more premises as one registrant in Central Excise**

CBEC has been clarified that if two or more premises of the same factory are located in a close area, these premises are within the jurisdiction of a Central Excise Range and the process undertaken there are interlinked and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations, as may be prescribed, allow single registration. This circular shall come into force from 1st of March, 2016.

Source: Circular No. 1016/4/2016-CX, dated 29th February 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1016-2016cx.pdf

➲ **Withdrawal from prosecution in Central Excise cases older than 15 years involving duty less than rupees five lakhs**

Detailed clarifications and instructions have been issued w.r.t. Withdrawal from prosecution in Central Excise cases older than 15 years involving duty less than rupees five lakhs.

Source: Circular No. 1018/6/2016-CX dated 29th Feb 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1018-2016cx.pdf

➲ **Certificate evidencing payment of Central Excise duty**

Facility of issuing of Certificate as proof of payment of Central

Excise duty was extended to Small Scale Industry vide Circular No. 620/11/2002-CX, dated 20.02.2002. References have been received from Trade for extending this facility of issuing Certificate as proof of payment of Central Excise duty to all categories of industries.

Now as per *Circular No. 1017/5/2016-CX, dated: 29th February, 2016*, CBEC has been decided that benefit of Circular No.620/11/2002-CX dated 20.02.2002 shall be extended to the entire industry as a matter of trade facilitation. This circular shall come into force from 1st of March, 2016.

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2016/circ1017-2016cx.pdf;jsessionid=657640393F94B91A2169B88E90A89D88

➲ **Practice of issuance of Procurement Certificate (P.C) and obtaining countersignature of Jurisdictional AC / DC**

In order to mitigate the difficulties of the units it has been decided that henceforth the procurement certificates to the EOUs and units in EPZ/STP/ETHP/SEZ except for those in textile and chemical sectors would be issued by the jurisdictional Superintendent of Customs or Central Excise. However, in respect of units in chemical and textile sector the procurement certificate would continue to be issued by the jurisdictional Assistant/Deputy Commissioner of Customs or Central Excise. The jurisdictional Superintendent before issue of procurement certificate would ensure that the consignment under clearance is covered by the Bond amount.

EOUs having a status holder certificate under the Foreign Trade Policy shall be eligible for the Fast Track Clearance Procedure under para 6.39 (Now para 6.40) of Hand Book of Procedure (HBP). To give effect to the provisions under para 6.39.3 (now para 6.40 (c)) of HBP, the Board has decided to extend the facility of importing goods without payment of duty on the basis of pre-authenticated procurement certificate to the units having physical export turnover of Rs 10 crores and above in the preceding financial year and having a clean track record. The request to issue pre-authenticated procurement certificate will be submitted to the jurisdictional Asstt./Dy. Commissioner of Customs/Central Excise. After examination of the request, the Asstt./Dy. Commissioner of Customs/Central Excise may issue direction to the jurisdictional Superintendent to issue the pre-authenticated procurement certificate to the unit in a booklet form with running serial number calendar year wise. These pre-authenticated PC should not be sent to AC/DC again for their countersignature. The unit shall ensure that the consignment under clearance under such pre-authenticated procurement certificate is covered by the Bond amount under B-17 Bond. The procedure of inbond movement, examination, bonding and issue of re-warehousing certificate will be followed as usual.

Source: Instruction No. DGEP/FTP/07/2015, dated: 15th February, 2016

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-instructions/cs-instructions-2016/cs-ins-procure-cert-countersigned.pdf

Case Laws

➲ **Extraction of minerals from beach sand held as deemed manufacture**

Extracting minerals from beach sand using processes such as dredging, washing, magnetic separation, etc. amounts to 'conversion of ores into concentrates' and amounts to deemed manufacture under Chapter Note 4 to Chapter 26 of Tariff

Section 2(f), of the Central Excise Act, 1944 - Manufacture - Deemed Manufacture - Assessee was engaged in extracting minerals from beach sand as follows : (a) dredging of beach sand, (b) washing of dredged sand to separate/remove quartz, (c) obtaining concentrates containing minerals, (d) separating conducting minerals from non-conducting minerals and (e) using magnetic separation method to separate each mineral - Assessee was not paying duty on said process on ground that said process did not amount to manufacture and argued that, even otherwise, this process is exempt under Notification 63/95-CE - Department argued that as per Chapter Note 4 to Chapter 26, process of converting ores into concentrates amounts to manufacture; hence, present process amounts to manufacture - HELD : As per HSN, 'concentrates' are defined to include those obtained out of physical, physico-chemical or chemical operations on 'ores' such as crushing, grinding, magnetic separation, floatation, screening, grading, drying, calcinations, roasting, etc. - Hence, assessee's activity amounted to conversion of 'ores' into 'concentrates' and covered within deemed manufacture under Chapter Note 4 ibid - Deemed manufacture would arise even if content/purity of ores does not improve - However, since issue of exemption under Notification 63/95-CE was not examined, same was remanded back for consideration thereof. [Partly in favour of revenue/Matter remanded]

Circulars and Notifications: Circular No. 332/1/2012-TRU dated 17-2-2012, Notification No. 63/95-CE dated 16-3-1995

Source: CESTAT, Kolkata Bench, Indian Rare Earths Ltd. v. Commissioner of Central Excise & Service Tax, Bhubaneshwar-I [2016] 67 taxmann.com 336 (Kolkata - CESTAT)

➲ **No demand on assumption that excess quantity of molasses was due to furtive purchase of sugarcane and sale of sugar**

Excise & Customs : Mere excess quantity of by-product molasses arising due to mixture of water, does not prove clandestine purchases of sugarcane and sale of sugar; hence, demand based on assumption of clandestine purchases/sales was dropped

Section 11A of the Central Excise Act, 1944 - Recovery - Of duty or tax not levied/paid or short-levied/paid or erroneously refunded - Clandestine Removal of Excisable Goods - Assessee was engaged in manufacture of sugar, in course of which molasses emerged as by-product - Department found excess quantity of molasses and alleged clandestine removal of sugar - Assessee argued that : (a) molasses were stored in tanks, (b) due to auto-combustion, temperature used to rise and water was sprinkled for cooling, and (c) due to mixture of water, etc., quantity of molasses had increased - HELD : Demand cannot be confirmed alleging clandestine removal without evidence of purchase of raw material (sugarcane), use of electricity, removal of final product (sugar) and its sale - Here, demand was raised on mere assumption that excess of molasses shows that assessee must have purchased excess sugarcane and cleared excess sugar clandestinely - Sugar industry is completely controlled industry - Further, assessee had furnished records of purchases, weighment and sales and had explained increase in quantity of molasses being due to increase in temperature and mixture of water - Therefore, demand based on assumptions was dropped. [In favour of assessee]

Section 11AC of the Central Excise Act, 1944, read with rule 25 of the Central Excise Rules, 2002, section 78 of the Finance Act, 1994 and section 114A of the Customs Act, 1962 - Penalty - For evasion of duty/tax - Once a finding has been given by Tribunal that there has been no suppression or misstatement by assessee for purpose of invocation of extended period, imposition of evasion penalty under section 11AC does not arise. [In favour of assessee]

Case Law: High Court of Allahabad, Triveni Engineering & Industries Ltd. v. Commissioner of Central Excise, Allahabad [2016] 67 taxmann.com 151 (Allahabad)

SERVICE TAX

Notifications:

➲ CBEC amends Notification No. 41/2012- ST, dated the 29th June, 2012 so as to allow refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods and to increase the refund amount commensurate to the increased service tax rate.

Source: Notification No. 01/2016-ST dt. 03-02-2016

Read more at: http://www.cbec.gov.in/htdocs-servicetax/st-notifications/st-notifications-2016/st01-2016

➲ **Refund of Swatch Bharat Cess to SEZ**

The CBEC vide *Notification No. 02/2016-Service Tax dated February 3, 2016* notified, to enable the SEZ Unit or the Developer for refund of the Swatch Bharat (SB) Cess paid on the specified services to claim the same on which ab-initio exemption is admissible but not claimed.

Read more at: http://www.cbec.gov.in/htdocs-servicetax/st-notifications/st-notifications-2016/st02-2016

➲ **SB Cess on exported services**

CBEC seeks to amend notification No. 39/2012- ST, dated the 20th June, 2012 so as to provide for rebate of Swachh Bharat Cess paid on all services, used in providing services exported in terms of rule 6A of the Service Tax Rules vide *Notification No. 03/2016-ST dt. 03-02-2016*.

Read more at: http://www.cbec.gov.in/htdocs-servicetax/st-notifications/st-notifications-2016/st03-2016

➲ **Service Tax and Central Excise (Furnishing of Annual Information Return) Rules, 2016**

CBEC has issued circular regarding the Annual Information Return to be submitted in the revised form AIRF which is annexed to *Notification No.04/2016-Service tax dated 15th Feb, 2016*.

Read more at: http://www.cbec.gov.in/htdocs-servicetax/st-notifications/st-notifications-2016/st04-2016

➲ **Exemption from service tax**

CBEC has amended Notification No.25/2012 by inserting new entry for granting exemption from service tax for services provided by Government or a local authority to a business entity having turnover upto Rs 10 lacs in the preceding Financial Year.

Source: Notification No. 07/2016-Service Tax dated 18th February, 2016

Read more at: http://www.cbec.gov.in/htdocs-servicetax/st-notifications/st-notifications-2016/st07-2016

Case Laws:

➲ **Service Tax : Service tax paid by service-provider during pendency of approval of merger with service-recipient should be refunded**

Section 11B, read with section 12B, of the Central Excise Act, 1944 and section 83 of the Finance Act, 1994 - Levy and collection of duty - Claim for refund of duty and interest - Period 1-4-2007 to 31-3-2008 - A company 'J' was receiving royalty from another company 'U' for use of it brand name and paid service tax on royalty so

received - Company 'U' got merged/amalgamated with company 'J' with effect from 1-4-2007 - Thereupon name of company 'J' was changed to 'UI' (assessee herein) - High Court approved merger of company 'U' with company 'J' vide order passed on 26-5-2008 - Registrar of Companies issued his approval for change of name of 'J' to 'UI' from 20-6-2008 - Assessee 'UI' filed a refund claim on 8-1-2009 seeking refund of service tax paid during period 1-4-2007 to 31-3-2008 on royalty paid by company 'U' to company 'J' - It submitted that as a result of merger from 1-4-2007, service rendered during period 1-4-2007 to 31-3-2008 became service to self and, therefore, no service tax was payable, but was paid as order of High Court approving merger was received only on 28-5-2008 - Lower authorities rejected claim of refund on plea that Registrar of Companies issued to assessee his approval for change of name of 'J' to 'UI' from 20-6-2008 and, therefore, upto that date rendition of service could not be termed as service to self - Whether since as per arrangement between company 'J' and company 'U', it was clear that merger/amalgamation was effective from 1-4-2007 even if approvals by High Court and Registrar of Companies were issued later, service rendered during impugned period 1-4-2007 to 31-3-2008 became service to self and consequently assessee was entitled to refund of service tax paid during said period - Held, yes [In favour of assessee]

➲ **Contract for carrying out job-work does not amount to manpower supply services**

Service Tax : Cutting, drilling, punching, bending and notching of material on jobwork basis in factory of client does not amount to 'manpower supply services'; further, being an intermediate job-work process leading to production of dutiable goods, same is exempt from service tax.

Section 65(68), read with section 65(19) of the Finance Act, 1994 read with rule 2(1)(g) of the Service Tax Rules, 1994 - Taxable services - Manpower Recruitment or Supply Agency's Services - Assessee undertook cutting, drilling, punching, bending and notching of material on jobwork basis in factory of M/s. AEPL - Department argued that assessee had supplied manpower to AEPL and hence, it was taxable under Manpower Supply Services - HELD : Assessee undertook job of cutting, etc. in factory of M/s. AEPL for which consideration was paid in lumpsum amount - Hence, there was no supply of manpower by assessee, directly or indirectly - Moreover, assessee's job-work activity was exempt from service tax, as duty on final product was payable by M/s. AEPL - Hence, demand was set aside. [In favour of assessee]

Circulars and Notifications : Notification No. 8/2005-ST dated 01-03-2005

Case Law: CESTAT, Mumbai Bench, Commissioner of Central Excise v. Mishra Engg. Works
[2016] 67 taxmann.com 367 (Mumbai - CESTAT)

➲ **Service Tax : Where assessee is engaged in promoting brand of foreign holding company and receives consideration from foreign holding company, then : (a) since services are provided on principal-to-principal basis, such services cannot be regarded intermediary services; (b) their Place of Provision would be location of service recipient, viz., outside India; and (c) same would amount to export of service and not liable to service tax**

Section 66F of the Finance Act, 1994, read with rules 2(f), 3 and 9 of the Place of Provision of Services Rules, 2012 and rule 6A of the Service Tax Rules, 1994 - Service - Bundled Services - GoDaddy US, was a domain name registrar and web hosting service provider - Assessee was proposing to provide : (a) Marketing and promotion services, (b) Supervision of quality of third party customer care center services and (c) Payment processing services to GoDaddy US - Assessee sought ruling that all three services were a single service, viz., business support service under section 66F(3) and its Place of Provision (POP) was outside India as per rule 3 - Revenue argued that it was intermediary services and in view of section 66F(2), read with rule 9(c), its POP would be in India and taxable - HELD : Assessee was providing services to GoDaddy US and not providing services 'on behalf' of GoDaddy US; thus, assessee's services did not amount to 'intermediary' services - GoDaddy US would be dealing with Indian customers directly and assessee would not be providing any service to Indian customer of GoDaddy - Entire services are provided with sole intention of promoting brand of GoDaddy US and thus, main service is 'supporting business of GoDaddy US in India' and 'processing payments and oversight of services of third party Call Centers' are ancillary and incidental thereto - Hence, entire services would be a single package/bundle for a single/lump sum payment and would amount to business support services' - Since services were provided on principal-to-principal basis, its POP would be determined as per rule 3 ibid., viz., US.

In view of satisfaction of all conditions of rule 6A, it would amount to export of service - Hence, services of assessee to GoDaddy US would not be liable to service tax. [In favour of assessee]

Case Law: Authority For Advance Rulings (Central Excise, Customs & Service Tax), New Delhi, GoDaddy India Web Services (P.) Ltd., In re, JUSTICE V.S. SIRPURKAR, CHAIRMAN*
S.S. RANA AND R.S. SHUKLA, MEMBER

➲ **Credit of transportation service is available upto port of export**

Cenvat Credit : Removal of goods from control of seller is said to have occurred when property in goods is transferred under Sale of Goods Act, 1930; therefore, in case of export sale, place of removal extends upto port of export and thus, credit of transportation service is available upto port of export.

Rule 2(l), read with rule 2(qa), of the Cenvat Credit Rules, 2004, section 4 of the Central Excise Act, 1944 and section 19 of the Sale of Goods Act, 1930 - Cenvat Credit - Input service - Transportation Services - Assessee-manufacturer took credit of transportation services availed for clearance of goods from factory to 'port of export' - Department denied credit on ground that transport beyond place of removal is ineligible for credit - HELD : When property in goods is transferred under Sale of Goods Act, 1930, at that point only, removal of goods from control of seller is said to have occurred - Codified provisions in Sale of Goods Act, 1930 have been adopted by Circular No. 999/6/2015-Cx., dated 28-2-2015 - Therefore, credit of transportation service is available upto place of export or agreed place of delivery - Any other interpretation would make principle of elimination of cascading effect otiose and export shall be taxable, which is impermissible - Similarly, credit of Clearing and Forwarding Agent and Customs House Agent services will be admissible - Matter was remanded back for being disposed of in accordance with this judgment - Since interpretation of law is involved and conduct of assessee is not found to be questionable, there shall be no penalty [In favour of assessee/Matter remanded]

Circulars and Notifications : Circular No. 999/6/2015-Cx., dated 28-2-2015, Circular No. 988/12/2014-Cx., dated 20-10-2014, Circular No. 97/8/2007-ST, dated 23-8-2007

FACTS

- Assessee-manufacturer took credit of transportation services availed for clearance of goods from factory to 'port of export'.

- Department denied credit on ground that transport beyond place of removal is ineligible for credit.

HELD

- When property in goods is transferred under the Sale of Goods Act, 1930 as is envisaged by section 19 thereof, at that point only, removal of the goods from the control of the seller is said to have occurred. Seller parts has right at that point to buyer at that time and detaches detaching himself from his right over the goods. His right accordingly extinguishes. The situations are:—

(1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.
(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.
(3) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

- Precisely, sales is outcome of contract of sale of specific or ascertained goods. The property therein is transferred to the buyer at such time as the parties to the contract intend to do so. This is mandate of section 19(1) of the Sale of Goods Act, 1930. The intention of the parties is elucidated by sub-section (2) thereof. That can be ascertained having regard to the terms of the contract, the conduct of the parties and circumstances of the case. Sub-section (3) of section 19 covers a situation not covered by sub-section (2) of section 19. In such circumstances, Rules 20 to 24 of the Sale of Goods Act, 1930 shall apply for ascertaining the intention of the parties as to the time at which the property in goods is to pass to the buyer.
- The codified provisions in Sale of Goods Act, 1930 in the manner described above has been adopted by Boards Circular No. 999/6/2015-CX., dated 28-2-2015 aforesaid. Therefore, there should not be any ambiguity by the Adjudicating Authority to understand the concept of sale where that takes place and the intention of the parties entitling the seller of the goods to the Cenvat credit of the service tax paid on transportation of the goods to the place of export or for delivery thereof at the place agreed between the parties.
- It may further be stated that rule 2(r) of Cenvat Credit Rules, 2004 1994, read with rule 2 (1)(d) of the Service Tax Rules, 1994 explains mandate of section 68(2) of the Finance Act. In substance, the service recipient of the transportation is called the person liable to pay service tax. Once service tax is levied under section 66 of the Finance Act, 1994 that becomes admissible credit for the grant under the scheme of Cenvat Credit Rules, 2004. Therefore, the service tax paid in terms of the reverse charge mechanism under section 68 of the Finance Act, 1994, read with section 19 of the Sale of Goods Act, 1930 and the circular aforesaid becomes input service to fulfil contractual obligation. That does not disentitle the tax payer to the Cenvat credit of the service tax paid in respect of transport service availed to make delivery of goods at the destination which otherwise would make the rule of cascading effect otios and export shall be taxable. That is not permitted. Even for this reason also the assessees are entitled to Cenvat credit.
- So far as the export of goods are concerned, following the aforesaid rationale, the service tax paid availing transportation service shall be admissible to the Cenvat credit or refundable where that is not possible to be set-off against future liability. It is also submitted in the Bar that C&F and CHA services were availed for export of the goods. Thus, the service tax paid in respect of those services shall entitle the assessees to avail Cenvat credit.
- Learned Adjudicating Authority concerned shall dispose of claims of the appellants on the issues of Cenvat credit granting fair opportunity of hearing to them and examining relevant evidence in each case following aforesaid guidelines shall pass reasoned and speaking order. If there are any other claims other than the Cenvat credit, C&F and CHA service, such issues shall be dealt by the authority in accordance with law considering pleadings, evidence and law.
- Since interpretation of law was involved in all the cases and

conduct of the appellants are not found to be questionable, there shall be no penalty in any of the cases.

Case Law: CESTAT Chennai Bench, Commissioner of Central Excise, Chennai II v. Lucas TVS Ltd.
[2016] 67 taxmann.com 349 (Chennai - CESTAT)

INCOME TAX

Circulars:

➲ **Issue of taxability of surplus on sale of shares and securities - Capital Gains or Business Income - Instructions in order to reduce litigation**

Read full notification at: http://www.incometaxindia.gov.in/communications/circular/circular-no-6.pdf

Source: Circular No.6/2016, dated: 29 th February, 2016

➲ **Tax deduction at Sources (TDS) on payments by television channels and publishing houses to advertising companies for procuring or canvasing for advertisements.**

Source: Circular No. 05/2016, dated: 29th February 2016

Read more at: http://www.incometaxindia.gov.in/communications/circular/circular_5_2016.pdf

➲ **Tax Deduction at Sources (TDS) on payments by broadcasters or television channels to production houses for production of content or programme for telecasting.**

Source: Circular No. 04/2016, dated: 29th February 2016

Read full notification at: http://www.incometaxindia.gov.in/pages/communications/circulars.aspx

➲ **CBEC clarifies nature of share Buy-back transactions under Income-tax Act, 1961 vide** *Circular No. 3/2016 dated: 26th February 2016*.

Read full notification at: http://www.incometaxindia.gov.in/communications/circular/circular_3_2016.pdf

➲ **Benefits of the India-United Kingdom (UK) Double Taxation Avoidance Agreement to UK parternership firms .**

Source: Circular No. 2/2016 dated: 25th February 2016

Read full notification at: http://www.incometaxindia.gov.in/communications/circular/circular2_2016.pdf

➲ **CBDT passes rectification order under section 154 of Incometax Act, 1961 vide** *Instruction No. 2/2016, dated: 15th February 2016.*

Read in deatil at: http://www.incometaxindia.gov.in/news/instruction2_2016.pdf

Case Laws:

➲ **Sec. 14A disallowance is applicable even on income deductible under sec. 80P**

IT: Provisions of section 14A are applicable even to income which has been claimed as deduction under section 80P(2)(d)

Section 14A, read with section 80P of the Income-tax Act, 1961 - Expenditure incurred in relation to income not includible in total income (In case of deduction under section 80P) - Assessment year 2011-12 - Whether provisions of section 14A are applicable even to income claimed as deduction under section 80P(2)(d) - Held, yes [In favour of revenue]

FACTS:

- The assessee, a co-operative society was engaged in marketing of milk products of the member societies. One of the activity of the assessee was to provide funds for working capital to the member societies and it earned interest income.
- The Assessing Officer, while computing the deduction under section 80P(2)(d) in respect of the interest income received from the member co-operative societies, applied provisions of section 14A and disallowed expenses claimed by the assessee.
- On second appeal, the Tribunal upheld the order of the Assessing Officer.
- On appeal under section 260A:

HELD:

- The matter is no longer res integra. This Court in Punjab State Co-operative Milk Producers Federation Ltd. v. CIT [2011] 336 ITR 495/201 Taxman 138/12 taxmann.com 471 (Punj. & Har.) after considering the relevant statutory provisions and the case law decided the identical issue against the assessee.
- Consequently, in view of the binding decision of this Court in Punjab State Co-operative Milk Producers Federation Ltd. (supra), no substantial question of law arises in the instant appeals which stand dismissed.

Case Law: High Court of Punjab and Haryana, Punjab State Cooperative Milk Producers Federation Ltd. v. Commissioner of Income-tax-II, Chandigarh
[2016] 67 taxmann.com 27 (Punjab & Haryana)

➲ **Fabrication of steel which involves several processes falls within definition of 'manufacture' for purpose of allowing deduction under section 80-IC**

Section 80-IC of the Income-tax Act, 1961 - Deductions - Special provisions in respect of certain undertakings or enterprises in certain special category States (Manufacture) - Assessment years 2006-07 and 2008-09 - Whether fabrication of steal structure which involves several processes falls within definition of 'manufacture' for purpose of allowing deduction under section 80-IC - Held, yes - Whether there is no requirement for purpose of section 80-IC that assessee has to appoint 10 or more workers directly for claiming deduction - Held, yes - Whether manufacturing and fabrication work done with help of contract labour would be eligible for deduction under section 80-IC - Held, yes [In favour of assessee]

FACTS:

- The assessee-firm was engaged in the business of manufacturing and fabrication of steel structure.
- It claimed deduction under section 80-IC.
- For assessment year 2006-07 the Assessing Officer disallowed deduction holding that the fabrication work done by the assessee and erected at the factory site could not be called 'manufacture'.
- For assessment year 2008-09, Assessing Officer conducted a survey at the branches/units of the assessee. It was found that assessee had only two or three employees and there were only limited number of machines. He held that it was not possible to produce/manufacture goods worth Rs. 8 crore in a financial year with only three regular employees and few machines. The Assessing Officer accordingly reached at the same conclusion regarding ineligibility of the assessee to claim deduction under section 80-IC.
- On appeal, the Commissioner (Appeals) held that assessee was eligible for deduction under section 80-IC.
- On revenue's appeal, the Tribunal confirmed the order of Commissioner (Appeals).
- On appeal before the High Court:

HELD:

- The fabrication of steel as undertaken by the assessee, which involves several of the processes does fall within the definition of 'manufacture' for the purposes of section 80-IC.

- The assessee furnished the requisite documents to demonstrate that it carried on the aforementioned manufacturing activity at its unit. The assessee produced during the assessment proceedings as well the appellate proceedings copies of the excise returns filed by it before the Central Excise Authority at Agartala, the bills of machinery and of raw material purchased, details of freight and cartage for purchase of raw material, and details of job work paid. Documents to show that the assessee paid Rs. 1.66 crores for the fabrication work carried out with the help of contract labour were produced. Further, the documents of registration with the VAT, CST, Service Tax, and Central Excise authorities were furnished. The assessee also produced details of the rent paid to the Tripura Industrial Development Corporation Ltd., the bills of construction of the factory sheds and the details of payment of electricity charged to Tripura State Electricity Corporation Ltd. The appellant has produced the bills of purchase of the machinery installed at the premises, comprising drilling machines, welding machines, motors, gas cutting machines: air compressor, etc. It produced details and bills of purchase of raw material comprising nuts, bolts, rods M.S. angles, channels, HR sheets metal etc. There was no requirement under section 80-IC that assessee had to employ 10 or more workers directly. In the circumstances there appears to have been no justification for the AO to disallow the deduction under section 80-IC.

Case Law: High Court of Delhi, Commissioner of Income-tax-VIII v. Khanna Brothers [2016] 67 taxmann.com 347 (Delhi)

➲ **Interest on loan disallowed as assessee diverted loan to AE at much lesser rate without any commercial expediency**

IT: Where action of assessee-company to make advances to group companies at a lower rate of interest than interest rate at which assessee-company borrowed such funds, was not shown to be in any manner actuated by business expediency, disallowance of differential interest was justified

Section 36(1)(iii) of the Income-tax Act, 1961 - Interest on borrowed capital - Assessment year 1995-96 - Assessee-company borrowed certain sum from various group companies and such funds were advanced to other group companies at much lower interest rate than interest rate on borrowed funds - It claimed deduction under section 36(1)(iii) on interest paid on borrowings - Whether though section 36(1)(iii) permits deduction of interest paid on capital borrowed for purpose of business or profession and expression 'for purpose of business' is wider than expression 'for purpose of earning income', assessee has to point out business expediency which prompted assessee to make advances at a lower rate of interest - Held, yes - Whether since action of assessee-company to make advances at a lower rate of interest than interest rate at which it borrowed such funds was not shown to be in any manner actuated by business expediency, such component of interest was rightly disallowed - Held, yes [In favour of revenue]

Words and Phrases : 'For the purpose of business' as occuring in section 36(1)(iii) of the Income-tax Act, 1961

FACTS:

- The assessee-company had borrowed huge amount from vari-

ous group companies and had, in turn, advanced large amount to certain companies.

▪ It claimed deduction under section 36(1)(iii) on the interest paid on the borrowings.

▪ The Assessing Officer noticed that the amount borrowed by the assessee-company was at an interest rate much higher than the rate of interest at which it had made lending to other companies; that substantial amount was lent to various companies having a common address; and that the same amount borrowed by the assessee-company came to be advanced on the same day at a lower rate of interest. The Assessing Officer concluded that the assessee-company had merely acted as conduit and there was no business expediency on the part of the assessee in making such advances at a lower interest rate. He, therefore, concluded that the money borrowed by the assessee-company had not been utilized for the purpose of assessee's business and, accordingly, he disallowed the differential portion of interest.

▪ On appeal, the Commissioner (Appeals) upheld disallowance.

▪ On further appeal, the Tribunal reversed the decision of the Assessing Officer and the Commissioner (Appeals) holding that when the Assessing Officer had in fact allowed part of the interest claimed by the assessee, he could not have made disallowance of part of the interest by applying the principles of section 40A(2).

▪ On appeal before the High Court:

HELD:

▪ The Supreme Court in the case of S.A. Builders Ltd. v. CIT [2007] 288 ITR 1/158 Taxman 74 had reiterated that the expression 'for the purpose of business' occurring in section 36(1)(iii) is wider in scope than the expression 'for the purpose of earning profits'. The Supreme Court opined that the correct test in such a case is whether the advance made is as a measure of commercial expediency.

▪ Two things, thus, become clear - first the expression 'for the purpose of business' occurring in section 36(1)(iii) has wider import than the expression 'for the purpose of earning income.' This is settled since long. The second aspect is that in S.A. Builders Ltd. (supra) the Supreme Court had applied the principles of commercial expediency in judging the claim of interest. This was made in the background of the interest borrowing funds being diverted by the assessee to its sister concern without charging interest. It was in this background that the Supreme Court observed that what has to be seen is whether transfer of funds to a sister concern on the ground of commercial expediency.

▪ In the instant case, at no stage the assessee pointed out any business expediency in making advances at a lower interest rate than the rate at which the assessee-company had borrowed the money. It is undoubtedly true that section 36(1)(iii) permits deduction of interest paid on capital borrowed for the purpose of business or profession and the expression 'for the purpose of business' is seen wider than the expression 'for the purpose of earning income'. Nevertheless the assessee had to point out the business expediency which prompted the assessee to make advances at a lower rate of interest. The assessee failed to bring on record any such material or even plead before the Assessing Officer any business expediency.

▪ Without upsetting the factual findings of the Assessing Officer, the Tribunal committed two errors in reversing the decisions of the revenue authorities - the first was of applying the principles 'for the purpose of business' being wider than 'for the purpose of earning income' in abstract. Such principles had to be applied in the context of business expediency if the same was demonstrated which, was not done. The second error committed by the Tribunal was to hold that the Assessing Officer has applied the principles of section 40A(2) which, according to the Tribunal, was not permissible. In other words, view of the Tribunal was that the Assessing Officer could have either allowed or disallowed the entire interest component relatable to a particular borrowing of the assessee. However, once the Assessing Officer decided to grant deduction of interest on a particular loan, it was not open for the Assessing Officer to disallow the portion of interest component.

▪ In this context, it was not found that the Assessing Officer applied the principles analogous to section 40A(2) by holding that the interest paid by the assessee was excessive. In fact the Assessing Officer allowed the deduction to the extent of rate of interest at which the advances were made by the assessee. However, the action of the assessee-company to make advances at a lower rate of interest than the interest liability discharged by the assessee-company in borrowing such funds was not shown to be in any manner actuated by business expediency. The Assessing Officer was perfectly justified in disallowing such component of interest.

Case Law: High Court of Gujarat, Commissioner of Income-tax, Ahmedabad-I v. Cornerstone Exports (P.) Ltd. [2016] 67 taxmann.com 345 (Gujarat)

➲ **Co. providing software development services couldn't be compared to a Media Co.**

IT/ILT : Whether a company engaged in activities related to media and IP TV was incomparable to a software development service provider

IT/ILT : Whether where assessee was benefitted on account of its transactions entirely with its associated enterprises on basis of an agreement, under which it was entitled to a mark-up of 10 per cent on cost, working capital adjustment should be made in

hands of comparables while benchmarking international transaction entered into by assessee

I. Section 92C of the Income-tax Act, 1961 - Transfer pricing - Computation of arm's length price (Comparables and adjustments/Comparables - Illustrations) - Assessment year 2008-09 - Assessee-company was engaged in carrying out software development and related services - Whether a software product company was incomparable to assessee-company - Held, yes - Whether company engaged in providing e-business services, product engineering and content engineering services and geographical information services could not be selected as valid comparables - Held, yes - Whether a company engaged in activities related to media and IP TV was incomparable to assessee - Held, yes [In favour of assessee]

II. Section 92C of the Income-tax Act, 1961 - Transfer pricing - Computation of arm's length price (Comparables and adjustments/Adjustments - Working capital) - Assessment year 2008-09 - Whether where assessee was benefitted on account of its transactions entirely with its associated enterprises on basis of an agreement, under which it was entitled to a mark-up of 10 per cent on cost, and there was no adversity on account of working capital, working capital adjustment should be made in hands of comparables while benchmarking international transaction entered into by assessee - Held, yes [In favour of assessee]

Case Law: In the ITAT Pune Bench 'B', Emptoris Technologies India (P.) Ltd. v. Deputy Commissioner of Income-tax, Circle 1 (2), Pune [2016] 67 taxmann.com 279 (Pune - Trib.)

FOREIGN TRADE

➲ **Settlement of Export/ Import transactions in currencies not having a direct exchange rate**

As per Notification No. FEMA. 14 /RB -2000, dated 3rd May 2000, export proceeds for exports from India and import payments for imports to India received / made in any mode has to be in Permitted currency, which means a foreign currency which is freely convertible and has a direct exchange rate. To further liberalize the procedure and facilitate settlement of export and import transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, it has been decided that AD Category-I banks may permit settlement of such export and import transactions (excluding those put through the ACU mechanism), subject to the following conditions:

a. Exporter/ Importer shall be a customer of the AD Bank;
b. Signed contract / invoice is in a freely convertible currency;
c. The beneficiary is willing to receive the payment in the currency of beneficiary instead of the original (freely convertible) currency of the invoice/ contract/ Letter of Credit as full and final settlement
d. AD bank is satisfied with the bonafides of the transactions, and,
e. The counterparty to the exporter / importer of the AD bank is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non Co-operative Jurisdictions on which FATF has called for counter measures.

Source: Notification No. RBI/2015-16/307 [A.P. (DIR Series) Circular No. 42] dated: February 4, 2016

➲ **Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015**

As per A.P. (DIR Series) Circular No. 43/2015-16 [(1)/7(R)] dated 4th February, 2016, in consultation with the Government of India, A.D.(M.A. Series) Circular No. 11 dated May 16, 2000 have been repealed and replaced by the Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015. In terms of these Regulations, acquisition or transfer of any immovable property outside India by a person resident in India would require prior approval of Reserve Bank except in the following cases:

a)Property held outside India by a foreign citizen resident in India;
b)Property acquired by a person on or before 8th July, 1947 and held with the permission of Reserve Bank;
c) Property acquired by way of gift or inheritance
d) Property purchased out of funds held in Resident Foreign Currency (RFC) account held in accordance with the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015;
e) Property acquired jointly with a relative who is a person resident outside India provided there is no outflow of funds from India;
f) Property acquired by way of inheritance or gift from a person resident in India who acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition;
An Indian company having overseas offices may acquire immovable property outside India for its business and residential purposes provided total remittances do not exceed the following limits prescribed for initial and recurring expenses, respectively:
a) 15 per cent of the average annual sales/ income or turnover of the Indian entity during the last two financial years or up to 25 per cent of the net worth, whichever is higher;
b) 10 per cent of the average annual sales/ income or turnover during the last two financial years.

The new regulations have been notified vide Notification No. FEMA 7(R)/2015-RB dated January 21, 2016 c.f. G.S.R. No. 95(E) dated January 21, 2016 and shall come into force with effect from January 21, 2016.

Source: Notification No. RBI/2015-16/308 [A.P. (DIR Series) Circular No. 43/2015-16 [(1)/7(R)] dated: February 04, 2016

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10264&Mode=0

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

In terms of Regulation No. 4, a person resident in India may open, hold and maintain with an authorized dealer in India the following accounts, subject to the conditions specified in the regulations:

(i) Exchange Earner's Foreign Currency (EEFC) Account subject to the terms and conditions of the Exchange Earner's Foreign Currency Account Scheme.

(ii) Resident Foreign Currency (RFC) Account out of sources of receipt of foreign exchange.
(iii) Resident Foreign Currency (Domestic) [RFC (D)] Account with an authorized dealer in India out of sources of receipt of foreign exchange.
(iv) Diamond Dollar Account (DDA) - firms and companies who comply with the eligibility criteria stipulated in the Foreign Trade Policy of Government of India, subject to the terms and conditions of the DDA Scheme.

Also, as per Regulation No. 4, the following persons resident in the following persons resident in India can open foreign currency accounts with an authorized dealer in India, subject to the conditions specified in the regulations:

• A unit in a Special Economic Zone
• An exporter who is exporting services and engineering goods on deferred payment terms or has undertaken a turnkey project or a construction contract abroad.
• Indian agents of foreign airline or shipping companies.
• Ship-manning/ crew managing agencies in India.
• Project offices set up in India in terms of Foreign Exchange Management ((Establishment in India of Branch or Office).
• Indian companies receiving Foreign Direct Investment.
• Organizers of international seminars, conferences, conventions etc.

In terms of Regulation No. 5, the following persons resident in India can open, hold or maintain the above mentioned accounts outside India:
• An authorized dealer in India with its branch/head office/ correspondent outside India.
• A branch outside India of a bank incorporated or constituted in India.
• An India firm/ company/ body corporate in the name of its foreign office/ branch or its representative posted outside India.
• An exporter who is exporting services and engineering goods on deferred payment terms or has undertaken a turnkey project or a construction contract abroad.
• An Indian Party who is making overseas direct investments provided the overseas regulator requires the maintenance of such an account.
• A person raising ECB or ADR/ GDR.
• Indian shipping or airline companies.
• Life Insurance Corporation (LIC) of India or General Insurance Corporation (GIC) of India and its subsidiaries for the purpose of carrying on life/ general insurance business.
• A resident individual under the Liberalized Remittance Scheme.
• A person going abroad to participate in an exhibition/ trade fair.
• A person going abroad for studies.
• A person who is on a visit to a foreign country provided the balances are repatriated on return to India.
• A foreign citizen resident in India, being an employee of a foreign company, or an Indian citizen, being an employee of a foreign company, in either case on deputation to the office/ branch/subsidiary/joint venture/group company in India.
• A foreign citizen resident in India employed with an Indian company. As per Regulation No. 6, a Foreign Currency Account with an AD Bank in India can be opened, held and maintained in the form of Savings, Current or Term Deposit accounts for an individual, and in the form of Current or Term Deposit accounts for all other entities.

Source: Notification No. RBI/2015-16/309 A.P. (DIR Series) Circular No.44/2015-16 [(1)/10(R)], February 04, 2016

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10266&Mode=0

➲ **Foreign Exchange Management (Export and Import of Currency) Regulations**

As per *A.P. (DIR Series) Circular No. 45/2015-16 [(1)/6(R)]* which gives a synopsis of new Regulations of the Foreign Exchange Management regarding Export and Import of Currency including to/from Nepal or Bhutan. The RBI clarifies in this notification that the new regulations that have been notified in Notification No. FEMA. 6 (R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1004 (E) dated December 29, 2015 shall come into force with effect from December 29, 2015.

Source: Notification No. RBI/2015-16/310 A.P. (DIR Series) Circular No. 45/2015-16 [(1)/6(R)], February 04, 2016

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10268&Mode=0

➲ **Foreign Exchange Management (Realization, repatriation and surrender of foreign exchange) Regulations**

As per *A.P. (DIR Series) Circular No.46/2015-16 [(1)/9(R)]* which

gives the synopsis of new Regulations of Foreign Exchange Management regarding Realisation, repatriation and surrender of foreign exchange with respect to the Duties of persons to realise foreign exchange due, manner of Repatriation, period for surrender of realized foreign exchange and Period for surrender of received/ realised/unspent/unused foreign exchange by Resident individuals. The RBI clarifies in this notification that the new regulations that have been notified in Notification No. FEMA. 9(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1005 (E) dated December 29, 2015 shall come into force with effect from December 29, 2015.

Source: Notification No. RBI/2015-16/311 A.P. (DIR Series) Circular No.46/2015-16 [(1)/9(R)] February 04, 2016

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx-?Id=10269&Mode=0

➲ **Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015**

As per A.P. (DIR Series) Circular No.47/2015- 16 [(1)/11(R)] which gives the synopsis of new Regulations of Foreign Exchange Management regarding Possession and Retention of Foreign Currency by person resident in India and nonresident in India. The RBI clarifies that the new regulations that have been notified in Notification No. FEMA. 11(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1006 (E) dated December 29, 2015 shall come into force with effect from December 29, 2015.

Synopsis of the new regulations is given as under:

A. Following are the limits for possession or retention of foreign currency or foreign coins, namely:-

i. possession without limit of foreign currency and coins by an authorised person within the scope of his authority ;

ii. possession without limit of foreign coins by any person;

iii. retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US$ 2000 or its equivalent in aggregate, provided that such foreign exchange in the form of currency notes, bank notes and travellers cheques:

a. was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or

b. was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or

c. was acquired by him by way of honorarium or gift while on a visit to any place outside India; or

d. represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

B. A person resident in India but not permanently resident therein may possess without limit foreign currency in the form of currency notes, bank notes and travellers cheques, if such foreign currency was acquired, held or owned by him when he was resident outside India and, has been brought into India in accordance with the regulations made under the Act.

Source: Notification No. RBI/2015-16/312 [A.P. (DIR Series) Circular No.47/2015-16 [(1)/11(R)] dated: February 04, 2016

Read more at: https://rbi.org.in/Scripts/NotificationUser.aspx-?Id=10271&Mode=0

➲ **Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2016**

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India hereby makes the amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA. 20/2000-RB dated 3rd May 2000) namely: Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2016.

Read the amendments of the Regulation at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10289&Mode=0

Source: Notification No.FEMA.362/2016-RB dated: February 15, 2016

➲ **Amendment in export policy of Pulses**

Export of 'Roasted Gram (whole/Split) in consumer packs up to 1 kg has been permitted vide *Notification No. 40/2015-2020 dated 15/02/2015.* Read more at: dgft.gov.in/Exim/2000/NOT/NOT15/Noti No.40(E).pdf

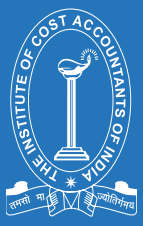
➲ **Procedure for export of sesame seeds to the European Union countries**

The Procedure/conditions for export of sesame seeds to European Union countries will come into force w.e.f 10.03.2016 vide *Notification No. 39/2015-2020 dated 11/02/2015.* Read more at: http://dgft.gov.in/Exim/2000/NOT/NOT15/noti3916.pdf

➲ **Minimum Import Price (MIP) on Iron and Steel under Chapter 72 of ITC (HS), 2012 - Schedule - 1 (Import Policy): amendment in import Policy Conditions**

Minimum Import Price is introduced against 173 HS code under Chapter 72 of ITC (HS), 2012 - Schedule - 1 (Import Policy) w.r.t. 'Iron & Steel vide *Notification No. 38/2015-2020 dated 05/02/2015.*

Read more at: http://dgft.gov.in/Exim/2000/NOT/NOT15/Notificaiton%20No.38%28E%29.pdf



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

HEADQUARTERS
CMA Bhawan
12, Sudder Street, Kolkata 700 016
Tel: +91 33 2252 1031/1034/1035/1492
Fax: +91 33 2252 7993/1026/1723
Email Id: cma.ebulletin@icmai.in

DELHI OFFICE
CMA Bhawan
3, Institutional Area, Lodhi Road,
New Delhi – 110 003
Tel: +91-11-24622156/57/58, 24618645
Fax: +91-11-43583642

OFFICE OF RESEARCH & JOURNAL
CMA Bhawan, 4th Floor
84, Harish Mukherjee Road
Kolkata 700 025, India
Board: +91-33-2454 0086/87/0184
Fax: +91-33-2454 0063