

Tax & Corporate law Bulletin

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November 2017

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PROVIDE
INNOVATIVE
SOLUTIONS**

From the Editor's Desk...

Dear Reader,

Greetings for the season,

Draft rules for grant of Foreign Tax Credit; Section 50C does not apply to transfer of leasehold rights in land; Extension of time till 29-4-2016 for filing ST-3 returns; Clarification on excisability of re-refined or waste oil and read many more ...

We eagerly await your feedback on the bulletin.

Yours truly,

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Your partners
for success



Individually, we are one Drop; Together we are an Ocean

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“Adapting swiftly to the
global business environment”



DIRECT TAX



- **Delhi High Court strikes down various Income-Computation and Disclosure Standards ('ICDS') provisions which are against settled principles of taxation**

Press Release, dated 4th November, 2017

In March 2015, Central Board of Direct Taxes (CBDT) notified 10 ICDS for taxpayers (other than Individuals and Hindu Undivided Family [HUF] not liable to tax audit) following mercantile system of accounting while computing income under the heads 'Profits and gains of business or profession' and / or 'Income from other sources' with effect from 1 April 2015.

Online filing of Appeal before Commissioner (Appeal) using newly notified Form 35 has been enabled for taxpayers mandated to E-file their returns using Digital Signature Certificate.

In December 2015, Chamber of Tax Consultants (CTC) filed representation with CBDT requiring clarification, guidance or dispensation of specific provisions of ICDS. However, CBDT deferred the applicability of ICDS in light of other impending regulatory changes and that a detailed study of ICDS implications was required before its implementation.

In September 2016, Old ICDS were rescinded and 10 updated ICDS notified through notification No. 87/2016.

- **Considering the petition and submissions on behalf of ctc and that of the respondents (i.e. union of india and cbdt), the delhi high court held under:**

1. As per income tax act the power of the Central Government („CG“) is limited to only notify ICDS that do not seek to override binding judicial proceedings or provisions of the Act.

2. To the extent that specific ICDS have been struck down as ultra vires the Act, the updated ICDS and clarifications issued by the CBDT are also held to be ultra vires the Act and struck down as such

With Assessment Year 2016-17, individuals and HUFs filing their returns of income in ITR-1, ITR-2, ITR-2A and ITR-4S, having income exceeding Rs.50 lakh will now be required to furnish information regarding assets and liabilities in Schedule-AL of the relevant ITR form.

- **Draft Notification on conversion of Indian Branch of Foreign Bank into Indian Subsidiary company**

Press Release, dated 18th november, 2017

The Finance Act, 2012 inserted a new Chapter XII-BB consisting of Section 115JG in the Income-tax Act, 1961 which contains “Special provisions relating to conversion of Indian Branch of a Foreign Bank into a Subsidiary Company”

Press Release, dated 28th November, 2017

Section 115JG of the Act, inter alia, provides that in case the conversion of Indian Branch of foreign bank fulfills the conditions notified by the Central Government, the capital gains arising from such conversion shall not be chargeable to tax and the provision relating to unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in case of foreign company and Indian subsidiary shall apply with such modification, exception etc. as may be specified in the notification.

- **Clarification on Cash sale of agricultural produce by cultivators / agriculturist**

Circular No. 11/2016, dated 26th November, 2017

Section 40A (3) of the Income-tax Act, 1961 provides for the disallowances of expenditure

exceeding Rs. 10000 made otherwise than by an account payee cheque / draft or use of electronic clearing system through a bank account.

However there are certain exceptions from application of the provisions of section 40A (3) in some specific cases and circumstances, which inter alia include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore, no disallowance under section 40A (3) of the Act can be made if the trader makes cash purchases of agricultural produce from the cultivator. In view of the above, it is clarified that cash sale of the agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not:—

a) Result in any disallowance of expenditure under section 40A (3) of the Act in the case of trader.

b) Attract prohibition under section 269ST of the Act in the case of the cultivator; and

c) Require the cultivator to quote his PAN/ or furnish Form No. 60.

RECENT JUDGEMENTS



➤ **Rates of income-tax in respect of income liable to tax for the assessment year 2017-18.**

In respect of income of all categories of assessee liable to tax for the assessment year 2017-18, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to

the Finance Act, 2016 as amended by the Taxation Laws (Second Amendment) Act, 2016 (No.48 of 2016), for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases.

(1) Surcharge on income-tax - The amount of income-tax shall be increased by a surcharge for the purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act, at the rate of fifteen per cent. of such income-tax; and

(b) in the case of cooperative societies, firms or local authorities, at the rate of twelve per cent. of such income-tax; having total income exceeding one crore rupees.

within 30 days of its purchase and upheld the order of the CIT (A).

In view of the above, we see no reason to interfere with the above concurrent findings of fact which has not been shown to be perverse or arbitrary.

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(c) in the case of a domestic company,— (i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of seven per cent. of such income tax; FINANCE BILL, 2017 PROVISIONS RELATING TO DIRECT TAXES Introduction

2 (ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the

Union calculated at the rate of twelve per cent. of such income-tax.

➤ **II. Rates for deduction of income-tax at source during the financial year 2017-18 from certain incomes other than "Salaries".**

The rates for deduction of income-tax at source during the financial year 2017-18 from certain incomes other than "Salaries" have been specified in Part II of the First Schedule to the Bill. The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance Act, 2016, for the purposes of deduction of income-tax at source during the financial year 2016-17.

➤ **Surcharge**

The amount of tax so deducted, in the case of a non-resident person (other than a company), shall be increased by a surcharge,—

(i) in case of an individual, Hindu undivided family, association of person, body of individual or artificial juridical person;

(a) at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(b) at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees; and

(ii) in case of a firm or cooperative society, at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees. The amount of tax so deducted, in the case of a company other than a domestic company, shall be increased by a surcharge,—

(i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the

income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

➤ **Rationalization of taxation of income by way of dividend**

Under the existing provisions of section 115BBDA, income by way of dividend in excess of Rs. 10 lakh is chargeable to tax at the rate of 10% on gross basis in case of a resident individual, Hindu undivided family or firm. With a view to ensure horizontal equity among all categories of tax payers deriving income from dividend, it is proposed to amend section 115BBDA so as to provide that the provisions of said section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions, etc. This amendment will take effect from 1st April, 2018 and will, accordingly apply in relation to the assessment year 2018-19 and subsequent years.

➤ **Amendment of Section 253**

The existing provisions of sub-clause (f) of sub-section (1) of section 253 provide that an order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 shall be appealable before the Appellate Tribunal. It is proposed to expand the scope of the said section to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the Appellate Tribunal. This amendment will take effect from 1st April, 2017.

➤ **Rationalization of rebate allowable under Section 87A**

The existing provisions of section 87A provide for a rebate up to Rs. 5000 from the income-tax payable to a resident individual if this total income does not exceed Rs. 5,00,000. In view of proposed rationalisation of tax rates for individuals in the income slab of Rs. 2,50,000 to Rs.5,00,000, it is proposed to amend section 87A so as to reduce the maximum amount of rebate available under this section from existing Rs. 5000 to Rs. 2500. It is also proposed to provide that this rebate shall be available to only resident individuals whose total

income does not exceed Rs. 3,50,000. This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.

➤ Rationalisation of provisions of Section 10AA

Under the existing provisions of the section 10AA, deduction is allowed from the total income of an assessee, in respect of profits and gains from his Unit operating in SEZ, subject to fulfilment of certain conditions. Section 10AA allows deduction in computing the total income of the assessee, hence the deduction is to be allowed for the total income of the assessee as computed in accordance with the provision of the Act before giving effect to the provisions of section 10AA. However, courts have taken a view (while deciding the matter pertaining to section 10A which also contains similar provision) that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee. In view of the above, it is proposed to clarify that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under section 10AA in no case shall exceed the said total income. This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.

➤ Transfer Pricing - alleged excess investment in share capital of wholly owned subsidiary cannot be termed as loan and notional interest charged thereon



Topsgrup Electronic Systems v ITO (ITAT Mumbai)

The Tribunal deleted TP addition on account of

- a) alleged excess consideration paid on investment in share capital of wholly owned subsidiary re-characterized as loan
- b) and notional interest thereon on the ground that
 - ❖ Chapter X of the Act is inapplicable to an international transaction on capital account which does not result in income chargeable to tax and
 - ❖ Re-characterisation of the transaction is not permitted under the Act, and
 - ❖ That potential income, to qualify as income subject to transfer pricing under the Act, should arise from the impugned international transaction which is before the TPO for consideration and not out of a hypothetical transaction that may or may not take place in the future.

INDIRECT TAX

GOODS AND SERVICES TAX



➤ Decisions made in the 23rd GST Council Meeting

- ❖ The 23rd GST Council Meeting was held at Guwahati on 10th November 2017 wherein decisions and changes pertaining to revision in due dates of GST return filing, deferment of GSTR 2 & GSTR 3, increasing the limit for opting composition scheme were taken and recommended. Further, council has recommended reduction in GST rate from 28% to 18% on goods falling in 178 headings resulting only 50 items will attract GST rate of

28% to facilitate the trade and industry. Notification / circulars required for above have been issued on 14th November 2017 in order to make these amendments effective from 15th November 2017.

➤ **Clarification on movement of goods on approval basis**

Central Government has clarified that goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and will attract IGST.

➤ **Waiver of late fee on filing of GSTR3B for August and September, 2017**

In view of the difficulties being faced during the return filing process and in order to further facilitate taxpayers, Central Government has waived the late fee on filing of GSTR- 3B for the months of August and September, 2017. The necessary software changes are being carried out in the IT system. Electronic cash ledger of the taxpayers who have already paid the late fee on filing of GSTR-3B either for the month of August or September, 2017 or those who pay such fee before the necessary changes are carried out in the IT system will be credited with the amount of late fee so paid by them.

➤ **Authorized officer for enrollment of Goods and Services Tax Practitioner**

Central Board of Excise & Customs („CBEC“) has clarified that Assistant Commissioner / Deputy Commissioner, having jurisdiction over the place is the officer authorized to approve or reject the said application for enrolment as Goods and Service Tax Practitioner submitted by applicant. It is also clarified that the applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be

specified by the applicant in Item 1 of Part B of FORM GST PCT-1

IGST Rate in case Export on supply of taxable goods by a registered supplier to a registered recipient W.e.f 23rd October, 2017, the Central Government has exempted the intra-State supply and interstate supply of taxable goods in excess of the amount calculated @0.05 % and @ 0.1% respectively by a registered supplier i.e. Merchant Exporter to a registered recipient i.e. Ultimate Exporter for export is subject to fulfillment of certain conditions. Further, the Supplier shall not be eligible for the above-mentioned exemption if the registered recipient fails to export the said goods within a period of 90 days from the date of issue of tax invoice.

➤ **Additional goods under Reverse Charge Mechanism (‘RCM’) under section 9(3) of CGST Act**

Section 9 of CGST Act 2017 specifies categories of supply of goods or services, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. Central Government w.e.f 15th November, 2017 has notified to include “supply of raw cotton by agriculturist” under the reverse charge and tax will be liable to be paid by the recipient of such supply under reverse charge

➤ **Evidences for Claiming Refund under Deemed Export**

The Central Government has notified the following as evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:- 1. Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said holder, or a copy of the tax invoice under which such supplies have been made

by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it. 2. An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him. 3. An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

➤ **Exemption to Supply of services having place of supply in Nepal and Bhutan, against payment in Indian Rupees**

The Central Government has added a new entry in the exemption notification, namely, Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees.

➤ **Permanent transfer of Intellectual Property is a supply of goods or service**

To obviate dispute and litigation, CBEC notified that irrespective of whether permanent transfer of Intellectual Property is a supply of goods or service, the following rates shall be applicable:

Description	Rate of GST
Permanent transfer of Intellectual Property other than Information Technology software	12%
Permanent transfer of Intellectual Property in respect of Information Technology software	18%

➤ **Manual filing and processing of refund claims in respect of zero-rated supply**

Due to the non-availability of the refund module on the common portal, Central Government, on the recommendations of the Council, has instructed that the applications / documents / forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders.

CORPORATE LAWS



➤ **No need to separately upload Forms 49A & 49B after filing eSpice Forms for Permanent Account No. ('PAN') & Tax Deduction Account No. ('TAN')**

As part of its continuous efforts for simplifying Incorporation related process for providing Ease of Doing Business to stakeholders, the Government dispensed with the requirement of separately uploading Forms 49 A& 49B after filing SPICe e-forms with effect from 4 November 2017. Accordingly, stakeholders will not be required to upload signed 49A/49B using “Submit application for PAN/TAN” service. PAN and TAN will continue to be issued as before based on the details submitted in the eSpice forms itself.

➤ **Relaxation of additional fee and extension of last date of filing Form AOC-4 under Companies Act, 2013**

Government vide circular no. 14 dated 27 Oct 2017, relaxed additional fee for filing of Form AOC-4 for the financial year ending 31 March 2017 as below:- 1. For Form AOC-4 (XBRL E-forms using Ind AS): till 31 March 2018; 2. For Form AOC-4, AOC-4 (XBRL nonIndAS) & AOC-4 CFS: 28 November 2017.

➤ **Government notifies Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment, Rules, 2017**

As per Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment, Rules, 2011, only following companies were required to file Financial

Statements with the Registrar in Form AOC-4 XBRL:- 1. Companies listed with stock exchanges in India and their Indian subsidiaries; 2. Companies having paid up capital of 5 crore rupees or above; 3. Companies having turnover of 100 crore rupees or above;

FEMA



➤ Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017

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) and in supersession of Notification No. FEMA 20/2000-RB and Notification No. FEMA 24/2000-RB both dated May 3, 2000, as amended from time to time, the Reserve Bank makes the following regulations to regulate investment in India by a Person Resident Outside India, namely:-

Short title and commencement

(1) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017.

(2) They shall come into effect from the date of their publication in the Official Gazette except proviso (ii) to sub-regulation 1 of regulation 10 of these Regulations and proviso (ii) to sub-regulation 2 of regulation 10 of these Regulations which will come into effect from a date to be notified.

Notification No. RBI/2015-2016/356, dated 5th November 2016

As announced by the Governor, it has been decided to reduce the Marginal Standing Facility (MSF) rate by 75 basis points from 7.75 per cent to 7.00 percent with immediate effect.

All other terms and conditions of the current MSF scheme will remain unchanged.

Notification No. RBI/2015-2016/357 dated 5th November, 2016

It has been decided to reduce the Repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 6.75 per cent to 6.50 per cent.

Further, the Reverse Repo rate under the LAF has been increased by 25 basis points from 5.75 percent to 6.00 percent.

These changes will come into force with immediate effect. All other terms and conditions of the current LAF Scheme will remain unchanged.

➤ Section 42(1) of the Reserve Bank of India Act, 1934 - Change in Daily Minimum Cash Reserve Maintenance Requirement

Notification No. RBI/2015-16/359 dated 5th november, 2016

As announced in the First Bi-Monthly Monetary Policy Statement 2016-17 dated April 5, 2016, it has been decided to reduce the minimum daily maintenance of the Cash Reserve Ratio from 95 per cent of the requirement to 90 per cent effective from the fortnight beginning April 16, 2016.

➤ Security / Inspection needs and Movement of Treasure

Notification No. RBI/2015-16/369 dated 13th November 2016

It has now been decided that all the banks having currency chests should ensure conducting of fire audits bi-annually (once in two years) by the officials from the District Fire Department.

The banks may also ensure that the working condition of the Hotline and other security related gadgets, viz. access control, CCTV, etc. are checked once in a fortnight by the CC officials.

POLICY WATCH



➤ **MOU Approved Between India and Philippines**

The Union Cabinet chaired by Prime Minister Shri Narendra Modi has given its approval for signing a Memorandum of Understanding (MoU) between India and Philippines in the field of agriculture and related fields. The MoU will improve bilateral cooperation in the field of agriculture and will be mutually beneficial to both countries. It will promote understanding of best agricultural practices in the two countries and will help in better productivity as well as improved global market access.

➤ **Crop Residue Management**

Burning of crop residue in the states like Punjab, Haryana, Uttar Pradesh and Rajasthan also contributes in increasing environmental pollution levels. National Green Tribunal has directed the Delhi government and these four northern states to take strict measures to deal with this serious biennial threat. In this regard, Agriculture Ministry issued an advisory to the state governments to create awareness among the farmers about the harmful effect of straw burning and also asked them to provide the residue management machines and equipment such as Zero Till Seed Drill, Happy Seeder, Straw Baler, Rotavator, Paddy Straw Chopper/ Mulcher, Gyro Rake, Straw Reaper, Shredder, etc., to farmers through Custom Hiring Centres or village level Farm Machinery Banks.

➤ **GOI Launched The BHARAT-22 Exchange Traded Fund (ETF)**

The Government of India launched today the BHARAT-22 Exchange Traded Fund (ETF)

managed by ICICI Prudential Mutual Fund targeting an initial amount of about Rs.8,000 crore. This new fund offer is open till November 17, 2017. The Units of the Scheme will be allotted 25% to each category of investors. In this ETF, the Retirement Fund has been made a separate category of investors. In case of spill-over, an additional portion will be allocated giving preference to retail and retirement funds. There is a 3% discount across the board. The strength of this ETF lies in the specially created Index S&P BSE BHARAT-22 INDEX. This Index is a unique blend of shares of key CPSEs, Public Sector Banks (PSBs) and also the Government-owned shares in blue-chip private companies like Larsen & Tubro (L&T), Axis Bank and ITC

➤ **WCD Ministry Celebrates “Hausala 2017”**

The Ministry of Women and Child Development will celebrate the Child Rights Week (Hausla 2017) from 16th to 20th November 2017. The country celebrates the Children’s Day on 14th November and the International Child Rights Day is celebrated on 20th November every year. The period between the two important events will be celebrated as Child Rights Week by WCD Ministry by hosting an Inter CCI Festival for the children who reside in Child Care Institutions (CCIs). The commemoration of the festival “Hausala 2017” will provide an occasion to showcase the talents of children from CCIs from various child care institutions across the country and provide them with a space to express their dreams and aspiration. Children will be participating in various events like Bal Sansad, painting competition, athletics meet, football, chess competition, and speech writing.

➤ **Northeast To Get India’s First ‘Air Dispensary’**

The Northeast will soon get a helicopter-based air dispensary, the first of its kind, to serve the people in remote areas in the region. The Union Ministry of Development of Northeast (DONER) has already contributed Rs. 25 crore as part of the initial funding for this initiative. For a few months, the DoNER Ministry explored the idea of introducing a helicopter-based dispensary/OPD service in far-flung areas, where no doctor or medical facility is available and the patient does not have access to medical care. The proposal put forward by the Ministry of DoNER

has been accepted and is in the final stages of the process in the ministry of civil aviation.

➤ NPP Launched

Minister of State (IC) for Power and New & Renewable Energy, launched the National Power Portal (NPP). The portal may be accessed at <http://npp.gov.in>. It is a centralised system for Indian Power Sector which facilitates online data capture/ input (daily, monthly, annually) from generation, transmission and distribution utilities in the country and disseminate Power Sector Information (operational, capacity, demand, supply, consumption etc.) through various analysed reports, graphs, statistics for generation, transmission and distribution at all India, region, state level for central, state and private sector.

➤ NCERT Conducts The Largest Survey To Assess Learning Levels

The largest ever National Achievement Survey (NAS), based on the learning outcomes, was conducted among 25 lakhs school children from 1.1 lakh schools for Classes III, V, and VIII by NCERT across 700 districts on Monday. It was an exercise to understand the gaps in learning in government and government-aided schools. For the first time, the survey will be based on learning outcomes wherein a comparative analysis will be done up to the district level. Students of Classes III and V were assessed on their language, mathematical and environmental studies (not for class III) abilities while for Class VIII it was science and social science instead of environmental studies.

INDUSTRY WATCH & CORPORATE HIGHLIGHT



The office space market has been experiencing robust demand trends which will be fructified in the next 2 - 3 years keeping the office leasing activities buoyant and in an upward movement.

Net absorption for 2018 is expected to be at 30.2 million sq ft to record a positive growth over 2017. Though the percentage increase will be moderate at about 5%, the next two years will see healthy increase in net absorption of Grade A office spaces at average of 10% year-on year giving the office absorption market a stable momentum JLL India said. 2QFY18 operating performance disappoints:

Sales came in muted at INR61.7b (-5.5% YoY) in 2QFY18, below our estimate of INR68.9b, led by weak execution in Industrial (-28% YoY) and lower sales in Power (INR50.6b; -3.6% YoY). Sales during the quarter were impacted by a lower executable order book (INR575b executable orders available) and a delay in finalization of key orders like Yedadri (non-availability of EC), Panki and Bhusawal. BHEL recorded an operating loss of INR1.0b (est. of INR3.8b profit), as against a profit of INR1.5b in 2QFY17. PAT improved 5.9% YoY to INR1.2b, led by higher other income (INR4.9b v/s INR2.0b in 2QFY17; above est. of INR2.0b).

➤ Higher provisioning leads to loss at operating level:

Despite a gross margin improvement of 370bp YoY to 39.3%, BHEL posted an operating loss of INR1.0b, led by higher provisioning on account of employee wage revision of INR2.5b and contractual obligation provision of INR3.0b. This led to an increase in other expenses by 55% YoY to INR11.7b. BHEL booked a net profit of INR1.2b, led by higher-than-estimated other income. Other income stood at INR4.9b (INR2.0b in 2QFY17), driven by a forex gain of INR1.9b.

➤ Ordinance promulgated to amend the Insolvency and Bankruptcy Code, 2016

The President promulgated the Insolvency and Bankruptcy (Amendment) Ordinance, 2017 on November 23, 2017. It amends the Insolvency and

Bankruptcy Code, 2016.15 The Code provides a time-bound process for resolving insolvency in companies and among individuals. Insolvency is a situation where individuals or companies are unable to repay their outstanding debt. Key features of the Ordinance include:



Resolution applicant: The Code defines a resolution applicant as a person who submits a resolution plan to an insolvency professional. (A resolution plan specifies the details of how the debt of a defaulting debtor can be restructured.) The Ordinance amends this provision to define a resolution applicant as a person who submits a resolution plan after receiving an invite by the professional to do so.

Ineligibility to be a resolution applicant: The Ordinance inserts a provision prohibiting certain persons from being a resolution applicant and submitting a resolution plan.

These include: (i) undischarged insolvents (individuals unable to repay their debt), (ii) willful defaulters, (iii) a person whose account has been identified as a non-performing asset for more than a year, (iv) a person convicted of an offence punishable with two or more years of imprisonment, (v) a person disqualified as a director under the Companies Act, 2013, or (vi) anyone connected to a person mentioned above (including promoters or people in control of the defaulting firm during the implementation of the resolution plan).

Liquidation: The Ordinance prohibits the insolvency professional from selling the property of the defaulter to any such persons during liquidation.

Note that on November 7, 2017, the Insolvency and Bankruptcy Board of India amended its regulations to specify that a resolution plan will include certain details of the resolution applicant similar to those specified in the Ordinance. These are related to: (i) conviction of any offence, (ii) disqualification as director, and (iii) identification as a wilful default, among others.



2QFY18 results meaningfully below estimates, led by weak execution in industrial segment

Sales came in muted at INR61.7b (-5.5% YoY) in 2QFY18, below our estimate of INR68.9b, led by weak execution in Industrial (-28% YoY) and lower sales in Power (INR50.6b; -3.6% YoY). Sales during the quarter were impacted by a lower executable order book (INR575b executable orders available) and a delay in finalization of key orders like Yedadri (non-availability of EC), Panki and Bhusawal. BHEL recorded an operating loss of INR1.0b (est. of INR3.8b profit), as against a profit of INR1.5b in 2QFY17. PAT improved 5.9% YoY to INR1.2b, led by higher other income (INR4.9b v/s INR2.0b in 2QFY17; below est. of INR2.7b). Despite a gross margin improvement of 370bp YoY to 39.3%, BHEL posted an operating loss of INR1.0b, led by higher provisioning on account of employee wage revision of INR2.5b and contractual obligation provision of INR3.0b. This led to an increase in other expenses by 55% YoY to INR11.7b.

BHEL booked a net profit of INR1.2b, led by higher-than-estimated other income. Other income stood at INR4.9b (INR2.0b in 2QFY17), driven by a forex gain of INR1.9b.

Other expenses increased sharply (18.6% v/s 11.3% of sales in 2QFY17) on account of impact of wage revision hike (7th pay commission) taken by the company for INR2.5b. BHEL has taken contractual obligation provision of INR3.0b.

Statuary compliance calendar for the month of November 2017

Due Date	Statuary Compliance Under Act	Particulars	Governing Authority
			
07/11/2017	ITNS 281	Due date to deposit of TDS on salaries with the Government	CENTRAL BOARD OF DIRECT TAX
7/11/2017	ITR	– ITR & Tax Audit u/44AB	Central board of direct tax
15/11/2017	ECR	The Employees` Provident Funds & MP Act 1952 (Provident Fund)	Provident fund
15//11/2017	TDS	– Quarterly TDS certificate for Q2	Central board of direct tax
15/11/2017	GSTR-4	– GSTR 4 for July to Sep'17(Return for compounding taxable person)	GOODS AND SERVICES TAX
15/11/2017	GSTR-6	Return for Input Service Distributor	GOODS AND SERVICES TAX
20/11/2017	GSTR-3B	– GSTR 3B for Oct'17 (Simple return for Jul 2017- Mar 2018)	GOODS AND SERVICES TAX
20/11/2017	GSTR-5A	– GSTR 5A for July to Sep'17 (Return for Non-Resident foreign taxable person)	GOODS AND SERVICES TAX
21/11/2017	MONTHLY ECR	The Employees` State Insurance Act 1948 (ESIC)	ESIC
30/11/2017	AUDIT	IT Audit International TP & Domestic TP Cases & returns	CENTRAL BOARD OF DIRECT TAX
30/11/2017	GST	– GSTR 2 July'17,– Tran 1,– ITC 01,– ITC 04,– CMP 03	GOODS AND SERVICES TAX

Glossary

AAR	Authority of Advance Rulings	LCD	Liquid-crystal Display
ADR	American Depository Receipt	MP	Madhya Pradesh
ALP	Arm's Length Price	MP	Market price
AO	Assessing Officer	MF	Mutual fund
AP	Association of Persons	MSME	Micro Small and Medium Enterprises
APA	Advance Pricing Agreement	NBFC	Non Banking Finance Company
ATM	Automated Teller Machine	NHAI	National Highway Authority of India
AY	Assessment Year	NPS	National Pension Scheme
BCD	Basic Customs Duty	NRI	Nonresident in India
BI	Body of Individuals	NABARD	National Bank for Agriculture and Rural Development
BP	Balance of Payments	OEM	Original Equipment Manufacturer
CA	Chartered accountant	OET Act	Odessa Entry Tax Act, 1999
CAD	Current Account Deficit	PSU	Public Service Undertakings
CBDT	Central Board of Direct Taxes	P&L	Profit & loss
CBEC	Central Board of Excise & Customs	PF	Provident fund
CENVAT	Central Value Added Tax	POTR	Point of Taxation Rules
Customs Act	Customs Act, 1962	QE	Quantitative Easing
CIT	Commissioner of Income Tax	QFI	Qualified Foreign Investor
CPI	Consumer Price Index	RBI	Reserve Bank of India
CSR	Corporate Social Responsibility	REF	Renewable Energy Fund
CD	Countervailing Duty	REIT	Real Estate Investment Trust
DDT	Dividend Distribution Tax	Rules	Income-tax Rules, 1962
DTA	Domestic Tariff Area	SA	Standard on Auditing
ECB	External Commercial Borrowings	SAD	Special Additional Duty
ESI	Employee's state insurance	SC	Scheduled Caste
FDI	Foreign Direct Investment	SC	Supreme Court
FEMA	Foreign Exchange Management Act	SEBI	Securities and Exchange Board of India
FERA	Foreign Exchange Regulation Act	SEZ	Special Economic Zone
FII	Foreign Institutional Investors	ST	Scheduled Tribes
FIPB	Foreign Investment Promotion Board	ST	Service Tax
FPI	Foreign Portfolio Investment	STP	Software Technology Park
FTS	Fees for Technical Services	STR	Service Tax Rules
FY	Financial Year	STCG	Short Term Capital Gain
GDP	Gross Domestic Product	TIN	Transaction identification number
GDR	Global Depository Receipt	TNNM	Transactional Net Margin Method
GI	GOVERNMENT OF INDIA	Tribunal	Income tax Appellate Tribunal
GST	Goods and Services Tax	TDS	Tax Deducted at Source
HUF	Hindu Undivided Family	TPO	Transfer Pricing Officer
ICAI	Institute of chartered accountant	TED	Terminal Excise Duty
IFRS	International Financial Reporting Standard	VAT	Value Added Tax
IDR	Indian Depository Receipt	VCC	Venture Capital Companies
IIP	Index of Industrial Production	VCF	Venture Capital Fund
IRDA	Insurance Regulatory Development Authority	WPI	Wholesale Price Index
ITR	Income tax return	WT	Wealth tax
		WB	World bank

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- Strategic Decision Implementation – National and Global Platform
- Wealth Management Services.

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- RBI Consulting
- Private Equity Finding Advisory.
- Project Financing.
- Credit Rating.
- Business Asset Valuation.
- Due Diligence.

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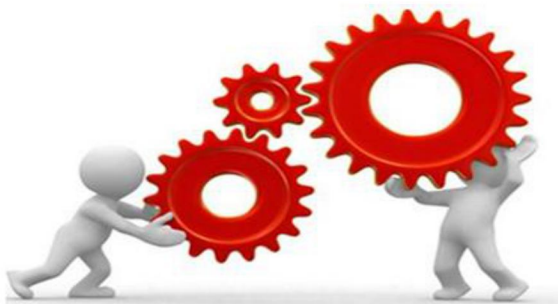
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- Preparation of return of Income Tax, Service Tax, Excise Duty and VAT.

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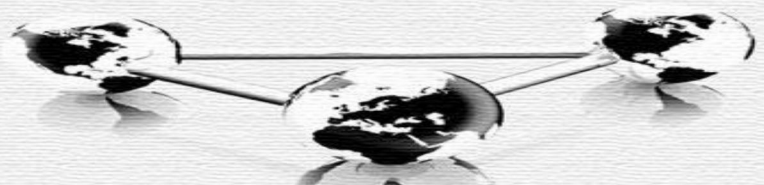
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