

# Tax & Corporate law Bulletin

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**February 2016**

### **From the Editor's Desk...**

Dear Reader,

Greetings for the season.

'Atal Pension Yojana (APY)' notified as a pension scheme for the purposes section 80CCD; Amendment in CENVAT Credit Rules, 2004; Real Estate Industry- Budget Impact.

And Read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

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## DIRECT TAX



### ➤ **Income-tax (Second Amendment), Rules, 2016.**

**Notification No. 5/2016 [F.No. 142/7/2014-TPL] / SO 502(E) dated 17<sup>th</sup> February, 2016.**

The Central Board of Direct Taxes hereby makes the following rules further to amend the Income tax Rules, 1962, namely:—

- ❖ In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), in rule 10THA, after the word “generation,” the word “supply,” shall be inserted.
- ❖ In the said rules, in rule 10THB, in clause (i), the words “by a generating company” shall be omitted.
- ❖ In the said rules, in rule 10THC, in sub-rule (2), in the Table, against serial number 1,-
  - a) In column 2, for the words, brackets, figures and letters “in item (i), (ii) or (iii) of rule THB, as the case may be”, the words, brackets, figures and letters “in clause (i), (ii) or (iii) of rule 10THB, as the case may be”, shall be substituted;
  - b) In column 3, after the words after the words “is determined”, the words “or the methodology for determination of the tariff is approved” shall be inserted.
- ❖ In the said rules, in rule 10 THD, in sub-rule (1), for the second proviso, the following proviso shall be substituted, namely:—  
 “Provided further that in respect of eligible specified domestic transactions, other than the transaction referred to in clause (iv) of rule 10 THB, undertaken during the previous year relevant to the assessment year beginning on the 1st day of April, 2013 or beginning on the 1st day of April, 2014 or beginning on the 1st day of April, 2015, Form 3CEFB may be furnished by

the assessee on or before the 31st day of March, 2016.”.

- ❖ In the said rules, in Appendix II, in Form No. 3CEFB, in item 2, in the Table, against the serial number 1, in the second column,-
  - a) For the words, brackets and figures “item (i), (ii) or (iii)”, the words, brackets and figures “clause (i), (ii) or (iii)”, shall be substituted;
  - b) In clause (c), after the word “tariff”, the words “or approving the methodology for determination of the tariff” shall be inserted.

### ➤ **Amendments in the notification of GOI, dated 6<sup>th</sup> of July, 2015 in Section 3, Sub-section (ii), vide number S.O. 1827(E).**

**Notification No. 6/2016 [F. No.178/ 1/2016-ITA-I] / SO 520(E) dated 18<sup>th</sup> February, 2016.**

The Central Board of Direct Taxes hereby makes the following rules further to amend the Income tax Rules, 1962, namely:—

In the said notification,—

- ❖ In paragraph 6, after sub-paragraph (ii), the following proviso shall be inserted, namely: -  
 “Provided that the National Bank for Agriculture and Rural Development shall earmark sixty per cent of such public issue under sub-paragraph (ii) for RIIs.”
- ❖ In paragraph 9, in the TABLE,—
  - a) For serial number 1 and entries relating thereto, the following serial number and entries shall be substituted, namely:—

Sl. No.	Entities	Allocated amount of bonds (in crore)
(1)	(2)	(3)
“1	National Highways Authority of India (NHAI)	19000”;

- b) After serial number 7 and entries relating thereto, the following serial number and entries shall be inserted, namely:-

Sl. No.	Entities	Allocated amount of bonds (in crore)
(1)	(2)	(3)
“8	National Bank for Agriculture and Rural Development (NABARD)	5000”;

- **‘Atal Pension Yojana (APY)’ notified as a pension scheme for the purposes section 80CCD.**

**Notification No. 7/2016 [F.No.173/394/2015-ITA-I] / SO 529(E) dated 19<sup>th</sup> February, 2016.**

The Central Government hereby notifies the ‘Atal Pension Yojana (APY)’ as published in the Gazette of India, Extraordinary, Part I, Section 1, vide number F. No. 16/1/2015-PR dated the 16th October, 2015 as a pension scheme for the purposes of the said section.

This Notification shall come into force from the date of its publication in the Official Gazette.

- **Notification No. 8/2016 [F.No.196/32/2014-ITA-I] / SO 530(E) dated 19<sup>th</sup> February, 2016.**

The Central Government hereby notifies for the purpose of the clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Competition Commission of India, a Commission established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), in respect of the following specified income arising to the said Commission, namely:—

- ❖ Amount received in the form of Government grants;
- ❖ Fees received under the Competition Act, 2002; and
- ❖ Interest accrued on Government grants and interest accrued on fees received under the Competition Act, 2002.

This notification shall be effective subject to the following conditions, namely:-

- ❖ The Competition Commission of India does not engage in any commercial activity;
- ❖ The activities and the nature of the specified income of the Competition Commission of India shall remain unchanged throughout the financial years; and
- ❖ The Competition Commission of India shall file return of income in accordance with clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be applicable for the specified income of the Competition Commission of India for the financial years **2016-2017 to 2020-2021**.

- **Notification No. 9/2016 [F. No.196 / 73 / 2012-ITA.I] / SO 595(E) dated 25<sup>th</sup> February, 2016.**

The Central Government hereby notifies for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Madhya Pradesh State AIDS Control Society a body constituted by the Government of Madhya Pradesh in respect of the following specified income arising to that Society, namely:-

- ❖ Amount received in the form of grants-in-aid from the Government of India; and
- ❖ Interest earned on such grants-in-aid. namely:

This notification shall be deemed to apply for the period 01.06.2011 to 31.03.2013 and shall apply with respect to the Financial Years **2013-14, 2014-15 and 2015-16**.

The notification shall be effective subject to the following conditions, namely:-

- ❖ The Madhya Pradesh State AIDS Control Society does not engage in any commercial activity;
- ❖ The activities and the nature of the specified income of the Madhya Pradesh State AIDS Control Society remain unchanged throughout the financial year; and
- ❖ The Madhya Pradesh State AIDS Control Society files return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

The grants received by the society shall be received and applied in accordance with the prevailing rules and regulations.

- **Amendments in the notification of GOI, dated 6<sup>th</sup> of July, 2015 in Section 3, Sub-section (ii), vide number S.O. 1827(E).**

**Notification No. 10/2016 [F.No.178/ 1 /2016-ITA-I] / SO 613(E) dated 26<sup>th</sup> February, 2016.**

The Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1827(E), dated the 6<sup>th</sup> of July, 2015, namely :-

In the said notification, -



- ❖ For paragraph 6, the following paragraph shall be substituted, namely:-

“6. Public issue: -

- Seventy percent of the aggregated amount of bonds issued by each entity in the TABLE shall be raised through public issue;
- Forty per cent. of public issue under sub-paragraph (i) shall be earmarked for RII's: Provided that the words “*Forty per cent.*” referred to in sub-paragraph (ii) shall be read as “*sixty per cent.*” for the purposes of the entities at serial numbers 2(b) and 8 of the TABLE.”;

- ❖ In paragraph 9, in the TABLE, for serial number 2 and the entries relating thereto, the following shall be substituted, namely:-

Sl. No.	Entities	Allocated amount of bonds (in crore)
(1)	(2)	(3)
“2	Indian Railway Finance Corporation Limited (IRFC)	
	(a) TRANCHE I	6000
	(b) TRANCHE II	3500”

## RECENT JUDGEMENTS



- **SECTION 206AA:** Section 90(2) overrides Section 206AA and so the assessee is required to deduct TDS as per the DTAA and not as per Section 206AA. The issue is debatable and so cannot be rectified by the AO u/s 200A.

*Wipro Ltd vs. ITO (ITAT Bangalore)*

### Fact of the case

Where the tax has been deducted on the strength of the beneficial provisions of section DTAA, the provisions of section 206AA of the Act cannot be invoked by the Assessing Officer to insist on the tax deduction @ 20%, having regard to the overriding nature of the provisions of section 90(2) of the Act. Section 206AA of the Act does not override the provisions of section 90(2) of the Act and in the

payments made to non-residents, the assessee correctly applied the rate of tax prescribed under the DTAA and not as per section 206AA of the Act because the provisions of the DTAA was more beneficial.

### Held

The explanation below sub-section-1 of Section 200A of the IT Act, which clarifies that in respect of deduction of tax at source where such rate is not in accordance with provisions of this Act can be considered as an incorrect claim apparent from the statement. However, in the case in hand, it is not a simple case of deduction of tax at source by applying the rate only as per the provisions of Act, when the benefit of DTAA is available to the recipient of the amount in question. Therefore, the question of applying the rate of 20% as provided u/s 206AA of the IT Act is an issue which requires a long drawn reasoning and finding. Hence, we are of the considered opinion that applying the rate of 20% without considering the provisions of DTAA and consequent adjustment while framing the intimation u/s 200A is beyond the scope of the said provision. Thus, the AO has travelled beyond the jurisdiction of making the adjustment as per the provisions of Section 200A of the IT Act, 1961.

- **SECTION 201(3):** The amendment to Section 201(3) by FA 2014 to extend the time limit for passing Section 201 orders is prospective and does not apply to cases which are already time-barred. A show-cause notice involving a pure point of law can be challenged in a Writ Petition

*Tata Teleservices vs. UOI (Gujarat High Court)*

### Fact of the case

The High Court had to consider whether section 201(3) of the Income Tax Act as amended on 1/10/2014 by Finance Act of 2014 would be applicable retrospectively or prospectively and whether the said provision would be applicable with respect to the proceedings under the Income Tax Act for A.Y. 2008-09 and 2009-2010, the proceedings which had already become time barred in view of the provisions of section 201(3) of the Act prior to amendment in section 201(3) of the Act by Finance Act 2014.

### Held

Section 201(3) of the Act as amended by Finance Act, 2012 amended on 28/5/2012 was specifically



made applicable retrospectively w.e.f. 1/14/2012, whereby limitation period was substituted from four years to six years for passing orders where TDS Statement had not been filed. Thus, wherever the Parliament / Legislature wanted to make provisions applicable retrospectively, it has been so provided. While making amendment in section 201(3) of the Act by Finance Act No.2 of 2014, does not so specifically provide that the said amendment shall be made applicable retrospectively. On the other-hand, it is specifically stated that the said amendment will take effect from 1/10/2014. As observed hereinabove, in the present cases, limitations provided for passing order under section 201(1) of the Act for A.Y. 2007-08 and 2008-09 had already been expired on 31/3/2011 and 31/3/2012, respectively, i.e. prior to section 201(3) came to be amended by Finance Act No.2 of 2014.

Considering the law laid down by the Hon'ble Supreme Court in the aforesaid decisions, to the facts of the case on hand and more particularly considering the fact that while amending section 201 by Finance Act, 2014, it has been specifically mentioned that the same shall be applicable w.e.f. 1/10/2014 and even considering the fact that proceedings for F.Y. 2007-08 and 2008-09 had become time barred and/or for the aforesaid financial years, limitation under section 201(3)(i) of the Act had already expired on 31/3/2011 and 31/3/2012, respectively, much prior to the amendment in section 201 as amended by Finance Act, 2014 and therefore, as such a right has been accrued in favour of the assessee and considering the fact that wherever legislature wanted to give retrospective effect so specifically provided while amending section 201(3) (ii) of the Act as was amended by Finance Act, 2012 with retrospective effect from 1/4/2010, it is to be held that section 201(3), as amended by Finance Act No.2 of 2014 shall not be applicable retrospectively and therefore, no order under section 201(i) of the Act can be passed for which limitation had already expired prior to amended section 201(3) as amended by Finance Act No.2 of 2014.

- **Section 147: Reopening of assessment is not permissible in the absence of "fresh tangible material". Entire law on the subject reiterated**

*Golden Tobacco Limited vs. DCIT (ITAT Mumbai)*

**Fact of the case**

There was no fresh tangible material in the possession of AO at the time of recording of

impugned reasons. A perusal of the 'Reasons' recorded by the AO in this case reveals that at the time of recording of these 'Reasons' the AO had examined original assessment records only and no fresh material had come in the possession of the AO. In response to our specific query also, Ld DR could not point out any fresh material available with the AO at the time of reopening of the case of the assessee. Thus, assertion of the assessee that there was no fresh material with AO for reopening of this case remained uncontroverted.

**Held**

It has been held in various judgments coming from various courts that availability of fresh tangible material in the possession of AO at the time of recording of impugned reasons is a sine qua none, before the AO can record reasons for reopening of the case. Beginning with the judgment of Hon'ble Supreme Court in the case of CIT vs. Kelvinator India Ltd. 320 ITR 561 (SC), laying down that for reopening of the assessment, the AO should have in its possession 'tangible material'. The term 'tangible material' has been understood and explained by various courts subsequently. There has been unanimity of the courts on this issue that in absence of fresh material indicating escaped income, the AO cannot assume jurisdiction to reopen already concluded assessment.

**INDIRECT TAX**

**SERVICE TAX**

**SERVICE TAX**



- **Amendment in Notification No. 41/2012- ST, dated the 29<sup>th</sup> 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.**



**Central Government, vide Notification No. 01/2016-ST dated 3<sup>rd</sup> February, 2016.**

The Central Government, hereby makes following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 41/2012 – Service Tax, dated the 29<sup>th</sup> June, 2012, published in the Gazette of India, Extraordinary, vide number G.S.R. 519(E), dated the 29th June, 2012, namely:-

In the said notification,-

**a) In the Explanation,-**

**I.** In clause (A), for sub-clause (i), the following sub-clause shall be substituted, namely:-

**i.** In the case of excisable goods, taxable services that have been used beyond factory or any other place or premises of production or manufacture of the said goods, for their export;

**II.** Clause (B) shall be omitted;

**b) In the Schedule of rates, in column (4),-**

- For the figures 0.04, wherever they occur, the figures 0.05 shall be substituted;
- For the figures 0.06, wherever they occur, the figures 0.07 shall be substituted;
- For the figures 0.08, wherever they occur, the figures 0.09 shall be substituted;
- For the figures 0.12, wherever they occur, the figures 0.14 shall be substituted;
- For the figures 0.18, wherever they occur, the figures 0.21 shall be substituted; and
- For the figures 0.20, wherever they occur, the figures 0.23 shall be substituted.

➤ **Amendment in Notification No. 12/2013- ST, dated the 1st July, 2013 so as to allow refund of Swachh Bharat Cess paid on specified services used in an SEZ.**

**Central Government, vide Notification No. 2/2016-ST dated 3<sup>rd</sup> February, 2016.**

The Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2013 – Service Tax, dated the 1st July, 2013, published in the Gazette of India, Extraordinary, vide

number G.S.R. 448(E), dated the 1st July, 2013, namely:-

In the said notification, in paragraph 3, in subparagraph (III), after clause (b), the following clause shall be inserted, namely:-

"(ba) the SEZ Unit or the Developer shall be entitled to-

- Refund of the Swachh Bharat Cess paid on the specified services on which ab-initio exemption is admissible but not claimed; and
- The refund of amount as determined by multiplying total service tax distributed to it in terms of clause (a) by effective rate of Swachh Bharat Cess and dividing the product by rate of service tax specified in section 66B of the Finance Act, 1994."

➤ **Amendment in 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.**

**Central Government, vide Notification No. 3/2016-ST dated 3<sup>rd</sup> February, 2016.**

The Central Government, hereby makes following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 39/2012 – Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, vide number G.S.R. 481(E), dated the 20th June, 2012, namely:-

In the said notification, in Explanation 1, after clause (c), the following clause shall be inserted, namely:-

**(d)** Swachh Bharat Cess as levied under sub-section (2) of section 119 of the Finance Act, 2015 (20 of 2015).

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

**Central Government, vide Notification No. 4/2016-ST dated 15<sup>th</sup> February, 2016.**

The Central Government has notified Service Tax & Central Excise (Furnishing of Annual Information Return) Rules, 2016 which shall come into force w.e.f. 1<sup>st</sup> April, 2016. As per these rules: -

- ❖ RBI is required to furnish details of foreign remittances for the receipt of services declared under prescribed purpose codes for such entities



whose value of remittances aggregates to more than **Rs. 50 lakh in a financial year.**

- ❖ State Electricity Board or an electricity distribution or transmission licensee or any other entity entrusted with such functions is required to furnish details of electricity consumed by manufacturers, using an induction furnace or rolling mill to manufacture goods falling under Section XV of the First Schedule to the Central Excise Tariff Act, 1985 whose aggregate value of clearances exceeds **Rs. 150 lakh in a financial year.**
- ❖ The said information is required to be filed electronically in Form AIRF along with relevant Annexure to the Directorate General of Systems & Data Management on or before 31st December of the subsequent financial year.

➤ **Amendment in notification no. 22/2015-ST dated 6th November, 2015**

**Central Government, vide Notification No. 5/2016-ST dated 17<sup>th</sup> February, 2016.**

The Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification No. 22/2015-Service Tax dated the 6<sup>th</sup> November, 2015, published vide G.S.R. 843 (E), dated the 6<sup>th</sup> November, 2015, namely:-

In the said notification, in the first proviso, for the words, brackets and figure “notification issued under sub-section (1), the words, brackets and figures notification or special order issued under sub-section (1) or as the case may be under sub-section (2) shall be substituted.

- **1<sup>st</sup> day of April, 2016 as the date with effect from which the provisions of Section 109(1) as contained in the Finance Act, 2015 shall come into effect.**

**Central Government, vide Notification No. 6/2016-ST dated 18<sup>th</sup> February, 2016.**

Central Government has appointed 1<sup>st</sup> April, 2016 as the date on which the provisions of section 109(1) of the Finance Act, 2015 shall come into force.

The said section 109(1) amends section 66D (a)(iv) of Finance Act, 1994 to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of “support service” u/s. 65B (49) is also omitted from the said date.

Resultantly, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax.

- **Amendment in Notification No. 25/2012 by inserting new entry for granting exemption from service tax for the services provided by Government or a local authority to a business entity having turnover upto rupees of ten lakh in the preceding financial year.**

**Central Government, vide Notification No. 7/2016-ST dated 18<sup>th</sup> February, 2016.**

The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 467 (E), dated the 20th June, 2012, namely:-

**CENTRAL EXCISE**

**NON-TARIFF NOTIFICATION**



- **Amendment in CENVAT Credit Rules, 2004**

**Central Government, Notification No. 01/2016 dated 1<sup>st</sup> February, 2016.**

The Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

- ❖ Short title and commencement: - (1) These rules may be called the CENVAT Credit (First Amendment) Rules, 2016.
- ❖ They shall come into force with effect from the 1<sup>st</sup> day of March, 2015.



❖ In the CENVAT Credit Rules, 2004, in rule 3, in sub-rule (1), in clause (vii), the proviso shall be omitted.

- **Amendment in 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.**

**Central Government, Notification No. 02/2016 dated 3<sup>rd</sup> February, 2016.**

The Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely :-

❖ In the CENVAT Credit Rules, 2004 (here-in-after referred to as the said rules), in rule 2, in clause (l), after sub-clause (C), the following Explanation shall be inserted, namely:

**Explanation** - For the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis”.

❖ In the said rules, in rule 3, in sub-rule (4), after the sixth proviso, the following proviso shall be inserted, namely: –

"Provided also that the CENVAT credit of any duty specified in sub-rule (1) shall not be utilised for payment of the Swachh Bharat Cess leviable under sub-section (2) of section 119 of the Finance Act, 2015 (20 of 2015):"

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

**Central Government, Notification No. 03/2016 dated 3<sup>rd</sup> February, 2016.**

The Central Board of Excise and Customs hereby makes the following further amendment in the notification of the Government of India, in the Ministry of Finance, Department of Revenue, No. 45/2001-Central Excise (N.T.), dated the 26th June, 2001 published in the Gazette of India, Extraordinary vide number G.S.R. 474(E), dated the 26th June, 2001, namely:-

In the said notification, paragraph 1, in sub-paragraph (5),-

❖ For the marginal heading, the following marginal heading shall be substituted, namely:

“Export of all excisable goods without payment of duty to Kurichu Hydro Electric Project, Tala Hydro Electric Project, Punatsangchhu- I Hydro Electric Project, Punatsangchhu-II Hydro Electric Project, Mangdechhu Hydro Electric Project and Kholongchhu Hydro Electric Project in Bhutan”.

❖ For the words “*Kurichu Hydro Electric Project, Tala Hydro Electric Project, Punatsangchhu-I Hydro Electric Project, Punatsangchhu-II Hydro Electric Project and Mangdechhu Hydro Electric Project*” the words “Kurichu Hydro Electric Project, Tala Hydro Electric Project, Punatsangchhu-I Hydro Electric Project, Punatsangchhu-II Hydro-Electric Project, Mangdechhu Hydro-Electric Project and Kholongchhu Hydro Electric Project” shall be substituted.

- **Notification under Section 11C of the Central Excise Act on Di-Calcium Phosphate (animal feed grade) of rock phosphate origin falling under heading 2835.**

**Central Government, Notification No. 04/2016 dated 12th February, 2016.**

Whereas the Central Government is satisfied that according to a practice that was generally prevalent regarding levy of duty of excise (including non-levy thereof) under section 3 of the Central Excise Act, 1944 (1 of 1944), (hereinafter referred to as the said Act), on Di-Calcium Phosphate (animal feed grade) of rock phosphate origin falling under heading 2835 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the said goods), was not being levied according to the said practice, during the period commencing on the 1st day of February, 2008 and ending with the 1st day of February, 2014;

Now, therefore, in exercise of the powers conferred by section 11C of the said Act, the Central Government hereby direct that the whole of the duty of excise payable under section 3 of the said Act on the said goods but for the said practice, shall not be required to be paid in respect of the said goods on which the said duty of excise was not levied during the period aforesaid in accordance with the said practice.



## FEMA



### ➤ **Future approach towards monitoring of frauds in NBFCs.**

**Notification No. RBI/2015-16/327 dated 18<sup>th</sup> February, 2016.**

- ❖ 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.

### ➤ **Undertaking of Point of Presence (PoP) Services under Pension Fund Regulatory and Development Authority for National Pension System (NPS).**

**Notification No. RBI/2015-16/324 [DNBR (PD) CC.No. 073/03.10.001/2015-16] dated 18<sup>th</sup> February, 2016.**

- ❖ The Reserve Bank of India (the Bank) has received proposals from Non- Banking Financial Companies (NBFCs), seeking approval for undertaking of Point of Presence (PoP) Services under Pension Fund Regulatory and Development Authority for National Pension System.
- ❖ The Bank has carefully examined the proposals and it has been decided, in public interest that NBFCs shall not undertake PoP services for National Pension System.

## CUSTOM

### ➤ **Amendment in Notification No. 12/2012-Customs dated 17<sup>th</sup> March, 2016.**

**Central Government, Notification No. 07/2016 dated 2<sup>nd</sup> February, 2016.**

The Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/2012-Customs, dated the 17<sup>th</sup> March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.185 (E), dated the 17<sup>th</sup> March, 2012, namely:-

In the said notification, in the Table, serial number 129 and the entries relating thereto shall be omitted.

### ➤ **Amendment in Notification No. 12/2012-Customs dated 17<sup>th</sup> March, 2016.**

**Central Government, Notification No. 10/2016 dated 17<sup>th</sup> February, 2016.**

The Central Government on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 12/2012- Customs, dated the 17<sup>th</sup> March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 185(E), dated the 17<sup>th</sup> March, 2012, namely:-

In the said notification,-

- ❖ In List 3, after item number (181) and the entries relating thereto, the following item numbers and entries shall be inserted, namely:-  
"(182) Octreotide  
(183) Somatropin;"
- ❖ In List 4, after item number (126) and the entries relating thereto, the following item numbers and entries shall be inserted, namely:-  
"(127) Anti- Haemophilic Factor Concentrate (VIII and IX)".



## POLICY WATCH

# POLICY WATCH

### ➤ **Bank of Baroda forex scam: RBI finds irregularities in banks' transactions.**

Various irregularities by banks such as non-submission and inordinate delays in filing of Suspicious Transaction Reports (STRs), besides opening of accounts by several entities without fulfilling KYC norms, have been noticed by Reserve Bank of India.

### ➤ **Indian Aviation Set To Get Boost**

Faced with regulatory bottlenecks and high taxation, and a fledgling infrastructure, India's aviation industry—having grown by 20 percent in 2015—is set to get a boost a new civil aviation policy. While the government has said it aims to provide a level playing-field to aviation-related sectors including airlines airports, MRO organizations and GA, systems and processes will need to be simplified and made transparent. This is believed to be one of the conclusions of the draft aviation policy that is expected to be released imminently.

The policy recognizes an eco-system will be needed to handle a high-growth market that saw 70 million domestic tickets sold last year, with forecasts for 300 million by 2022 and 500 million by 2027. International ticketing is expected to touch 200 million by 2027 also.

### ➤ **E-payments earned Indian economy \$6 billion from 2011-2015.**



## E-Payment

An increased use of electronic payment methods such as credit, debit and prepaid cards has added \$6.08 billion to the Indian economy during 2011 to 2015, even as it has created 336,000 jobs during the period, says a Visa Inc study conducted by Moody's Analytics.

According to the study, payment cards aren't just convenient; they help stimulate growth for economies around the world.

### ➤ **Indian road sector reviving on policy measures: ICRA**

Indian road sector is showing signs of revival drawing on several measures announced by the government over the last 18 months including a policy decision to award projects only after acquisition of 80% of land, There has been a 69% increase in project awards by National Highways Authority of India (NHAI) during the first eight months of 2015-16 to 2,649 km from 1,572 km in the same period of the previous fiscal. It also said that under the new land law though the cost of land acquisition has risen by 122% to Rs 30 million per hectare from Rs 13.5 million in FY 2015, it would not impact the private sector.

### ➤ **Energy projects to spark FDI growth.**



According to a Ministry of Planning and Investment report, the foreign direct investment (FDI) commitment in this sector is expected to reach a record high of about US\$4-US\$5 billion in 2016.

Last year, the sector attracted investment capital worth US\$2.8 billion, surpassing the real estate sector and falling just short of the FDI inflows to the manufacturing sector.

According to the General Department of Energy (GDE), which manages 20 build-operate-transfer (BOT) thermal power plants with the total capacity



of 24,000 megawatts nationwide, a series of BOT power projects are expected to finish construction this year, contributing to ensuring the stability of the country's power supply in the years to come.

➤ **IRDA approves LIC decision to include third gender option in proposal forms**

The Life Insurance Corporation of India (LIC) recently announced the decision to introduce the third gender option in its proposal forms. This is in line with the Supreme Court verdict in 2014, according to the report of leading news daily.

Transgender applicants can now opt for the 'third gender' category. Policy buyers until now had only two options 'male' and 'female'.

➤ **No cyber attack response strategy at most Indian companies.**

Most top executives at Indian companies have no strategy to react to a cyber attack, cyber war games held earlier this year by consultancy EY showed.

"We had CEOs who said they would call their chief information security officers to check if they had truly been hacked, others said they would call their chief marketing officer; some said they would call their corporate communications officer. And there was the realization that there was no agreement".

➤ **IT highest-paying sector in India: Study**



Information Technology sector employees get the highest pay in India with a median gross hourly salary of Rs 346.42, while those in the manufacturing sector get paid the least at Rs 254.04, says a report.

According to Monster Salary Index (MSI), the IT sector is the highest paying sector in India, but only 57.4% are satisfied with their salary.

➤ **Hero Moto corp. opens Rs. 850 crore R&D centre in Jaipur.**



Hero Moto Corp Ltd (HMCL), the world's largest two-wheeler manufacturer, inaugurated its global Centre of Innovation and Technology (CIT) in Jaipur, Rajasthan. Built with an investment of Rs 850 crores, the CIT is a reinforcement of Hero's commitment to innovate sustainable mobility solutions, for the world, in India.

The facility, which boasts of test-tracks within the campus, houses the technologies in product design & development, testing and validation. Home to over 500 automotive experts with global and regional expertise, the operations at CIT will be headed by Dr Markus Braunsperger, chief technology officer.

**HOW BUDGET AFFECTS DIFFERENT INDUSTRIES**

➤ **Budget 2016 negatively impacts automobile industry: Joe King, Audi India.**



We are disappointed that the industry's demand on reducing excise duty has not been addressed. On the contrary, 1% Infra cess on Petrol, CNG, LPG cars, 2.5% on small diesel cars and 4% on bigger diesel cars and SUVs has been added which will further affect the price and consequently demand," he said. "Also, we need to evaluate the impact of extra tax levy of 1% on purchase of cars above Rs 10 lakh. Government has not announced any positive initiatives for the industry which



contributes so to the manufacturing sector and overall economy.

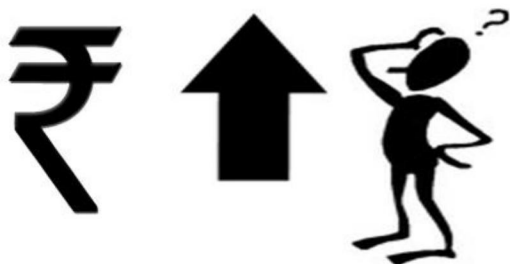
➤ **Budget 2016: Gems jewellery sector disappointed with 1% excise duty proposal**



The gems jewellery sector has expressed disappointment over the government's proposal to impose 1% excise duty in Budget 2016, saying the issue of mandatory PAN card was also not addressed.

Finance Minister Arun Jaitley proposed a 1% excise duty on jewellery without input credit or 12.5% with input tax credit on jewellery, excluding silver other than studded diamonds and some other precious stones.

➤ **ATF duty hike in Budget 2016 will push up air ticket prices.**



Air fares may go up in the coming days after the Union budget proposed to increase excise duty on jet fuel to 14% from 8%.

Jet fuel is the biggest cost for airlines and many airlines returned to profits in 2015-16 after years of losses, thanks to a global oil price slump.

According to an airline official who asked not to be identified, the actual impact will be even higher, since sales tax is calculated over and above excise duty. State-level sales taxes vary between 4% and 30%. Airlines have been lobbying for lower sales tax for over a decade.

➤ **Textile Industry-Budget Impact.**



The excise duty on branded garments retailing at Rs 1,000 and above has been increased from zero to 2% (without Cenvat credit) and from 6% to 12.5% (with Cenvat credit). Additionally, tariff value (presumptive) for excise/countervailing duties on readymade garments and other textile materials has been increased to 60% from 30% of the retail sale price which will increase prices. Basic customs duty on specified fibres and yarns has been reduced to 2.5% from 5%.

➤ **Real Estate Industry-Budget Impact.**



For first-time homebuyers, availing loans up to Rs. 35 lakh, interest exemption under Section 80 EE would be increased to Rs 1.5 lakh from Rs 1 lakh (if the property is priced up to Rs 50 lakh). This would boost demand for apartments in this price bracket, which currently forms nearly 40% of upcoming supply in cities.

Housing projects approved under the Pradhan Mantri Awas Yojana between June 2016 and March 2019 would receive full tax deduction on profits. This will be benefit developers focusing on affordable housing. Minimum alternate tax (MAT), though, would apply to these undertakings. Service tax exemption for constructing affordable houses (measuring up to 60 square metres) will boost demand.



## Statutory compliance calendar for the month of February 2016

Due date	Statutory compliance under Act	particulars	Governing Authority
			
06/02/2016	Service Tax	Payment of monthly service tax for the month of October by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of October on goods by assesses other than SSI units electronically	Central Board of Excise and Custom
07/02/2016	Income Tax	Deposit of Income Tax TCS and TDS deducted in October	Central Board of Direct Tax.
	NBFC-ND-SI	Monthly return of source and application of funds, profit and loss account, asset classification	Reserve Bank of India.
	NBFC-D	Monthly return of exposure to capital markets in form NBS-6 by NBFC having total assets of ` 100 crore and above	Reserve Bank of India.
10/02/2016	Central Excise	Monthly central excise return in form ER-1/ER-2 by other than SSI	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
	NBFC-ND-SI	Monthly statement of short term dynamic liquidity in form NBS-ALM1	Reserve Bank of India.
	Central Excise	Monthly return of receipts and consumption of Principal Inputs by specified manufacturers of excisable goods in form ER-6	The securities and exchange board of India Act-1992
15/02/2016	Income Tax	Advance income tax under section 211 of Income Tax Act by corporate (third installment) and non-corporate assesses (second installment)	Central Board of Direct Tax.
	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of November (b) Monthly return in form 5 for employees joining Provident Fund during November along with declaration in form 2 furnished by the employees (c) Monthly return of Provident Fund in form 10 of employees leaving the service during November	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
21/02/2016	ESIC	Payment of ESIC contribution for the month of November	The employees' state insurance Act-1948. Ministry of labour and employment.
25/02/2016	Provident Fund	Monthly contribution statement (abstract) in form 12A, along with copy of receipted challans regarding payment of contribution.	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952



### Glossary

AAR	Authority of Advance Rulings
ADR	American Depository Receipt
ALP	Arm's Length Price
AO	Assessing Officer
AP	Association of Persons
APA	Advance Pricing Agreement
ATM	Automated Teller Machine
AY	Assessment Year
BCD	Basic Customs Duty
BI	Body of Individuals
BP	Balance of Payments
CA	Chartered accountant
CAD	Current Account Deficit
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise & Customs
CENVAT	Central Value Added Tax
Customs Act	Customs Act, 1962
CIT	Commissioner of Income Tax
CPI	Consumer Price Index
CSR	Corporate Social Responsibility
CD	Countervailing Duty
DDT	Dividend Distribution Tax
DTA	Domestic Tariff Area
ECB	External Commercial Borrowings
ESI	Employee's state insurance
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FERA	Foreign Exchange Regulation Act
FII	Foreign Institutional Investors
FIPB	Foreign Investment Promotion Board
FPI	Foreign Portfolio Investment
FTS	Fees for Technical Services
FY	Financial Year
GDP	Gross Domestic Product
GDR	Global Depository Receipt
GI	Government of India
GST	Goods and Services Tax
HUF	Hindu Undivided Family
ICAI	Institute of chartered accountant
IFRS	International Financial Reporting Standard
IDR	Indian Depository Receipt
IIP	Index of Industrial Production
IRDA	Insurance Regulatory Development Authority
ITR	Income tax return

LCD	Liquid-crystal Display
MP	Madhya Pradesh
MP	Market price
MF	Mutual fund
MSME	Micro Small and Medium Enterprises
NBFC	Non Banking Finance Company
NHAI	National Highway Authority of India
NPS	National Pension Scheme
NRI	Nonresident in India
NABARD	National Bank for Agriculture and Rural Development
OEM	Original Equipment Manufacturer
OET Act	Odessa Entry Tax Act, 1999
PSU	Public Service Undertakings
P&L	Profit & loss
PF	Provident fund
POTR	Point of Taxation Rules
QE	Quantitative Easing
QFI	Qualified Foreign Investor
RBI	Reserve Bank of India
REF	Renewable Energy Fund
REIT	Real Estate Investment Trust
Rules	Income-tax Rules, 1962
SA	Standard on Auditing
SAD	Special Additional Duty
SC	Scheduled Caste
SC	Supreme Court
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
ST	Scheduled Tribes
ST	Service Tax
STP	Software Technology Park
STR	Service Tax Rules
STCG	Short Term Capital Gain
TIN	Transaction identification number
TNNM	Transactional Net Margin Method
Tribunal	Income tax Appellate Tribunal
TDS	Tax Deducted at Source
TPO	Transfer Pricing Officer
TED	Terminal Excise Duty
VAT	Value Added Tax
VCC	Venture Capital Companies
VCF	Venture Capital Fund
WPI	Wholesale Price Index
WT	Wealth tax
WB	World bank



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- Succession Planning.
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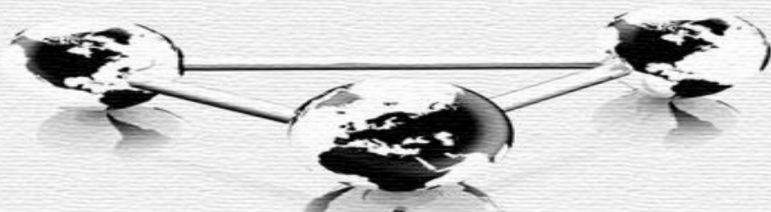
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