

# Tax & Corporate law Bulletin

RJA

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**APRIL 2017**

**COMMITTED TO  
PROVIDE  
INNOVATIVE  
SOLUTIONS**

## From the Editor's Desk...

Dear Reader,  
Greetings for the season,

*Central Goods and Service Tax Acts (CGST) ; Cash transactions of over Rs 2 lakh entail levy of 100% penalty on receiver of the amount CBDT Circular Explains Law On Whether Lease Rent From Industrial Park/SEZ Is Assessable As Business Profits Interest rates for delayed payments under GST and read many more ...*

We eagerly await your feedback on the bulletin.

Yours truly,  
**Rajput Jain & associates**  
Chartered accountants

For further details,  
Please contact....

**CA. Swatantra Singh**  
singh.swatantra@carajput.com  
**CA. Sushil Singh**  
sks\_978@carajput.com  
**CA. Navneet Gupta**  
info@carajput.com  
**CA. Manoj Kumar Singh**  
support@carajput.com



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“Adapting swiftly to the  
global business environment”



## DIRECT TAX



### ➤ **AMT Provisions Income Tax Act 1961 (AY 2017-18)**

*Press Release, dated April, 2017*

As per section 115JC of Income Tax Act, 1961, AMT is Alternate Minimum Tax computed on the adjusted total income of a non corporate assessee.

Need For AMT?

AMT is introduced in the Act, to reach and collect minimum taxes from the Non Corporate Assesseees who are claiming certain profit linked deductions. AMT is payable when Tax as per normal provisions is less than Alternate Minimum Tax on Adjusted Total Income.

Applicability:

The primary condition for applicability of AMT is that the assessee should be Non Corporate.

Such assessee should have claimed deduction under

### ➤ **Rules for Valuation of Unquoted Shares are notified**

CBDT has released the final rules for valuation of unquoted shares where transfer for shares is made without consideration or for consideration which is less than for aggregate fair market value of shares. New section 50CA was inserted in the Finance Act, 2017 to provide that where consideration for transfer of the unquoted equity share of a company is less than the FMV of such a share, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "capital gains". The section further provides that

FMV should be determined in the manner as defined in the relevant rule.

### ➤ **Cash transactions of over Rs 2 lakh entail levy of 100% penalty on receiver of the amount**

*Press Release, dated April, 2017*

The Income-Tax Department today warned people against indulging in cash transaction of Rs 2 lakh or more saying that the receiver of the amount will have to cough up an equal amount as penalty.

It also advised people having knowledge of such dealings to tip-off the tax department by sending an email to [blackmoneyinfo@incometax.gov.in](mailto:blackmoneyinfo@incometax.gov.in) in' the government has banned cash transactions of Rs 2 lakh or more from April 1, 2017, through the Finance Act 2017.

The newly inserted section 269ST in the Income Tax Act bans such cash dealings on a single day, in respect of a single transaction or transactions relating to one event or occasion from an individual. "Contravention of Section 269ST would entail levy of 100 per cent penalty on receiver of the amount," the tax department said in a public advertisement in leading dailies.

In the 2017-18 Budget, Finance Minister Arun Jaitley had proposed to ban cash transaction of over Rs 3 lakh. This limit was lowered to Rs 2 lakh as an amendment to the Finance Bill, which was passed by the Lok Sabha in March. The restriction is not applicable to any receipt by government, banking company, post office savings bank or co-operative bank, the tax department said.

The move to ban cash transaction above a threshold was aimed at curbing black money by discouraging cash transaction and promoting digital economy. The tax department had started the email address 'blackmoneyinfo@incometax.gov.in' in December last year post the demonetization of 500 and 1,000 rupee notes.

It had then asked people having knowledge about conversion of black money into black/white to inform the government through this mail id. Post the demonetization of 500 and 1,000 rupee notes,

people with unaccounted wealth had illegally converted their black money held in old notes to new 500 and 2,000 rupee notes.

The government had come out with a tax amnesty scheme PMGKY (Pradhan Mantri Garib Kalyan Yojana) under which people holding unaccounted cash could come clean by declaring their wealth and pay 50 per cent as tax and penalty. Also, a mandatory deposit of 25 per cent of the black money was to be made in a zero-interest bearing account for four years.

➤ **CBDT Circular Explains Law On Whether Lease Rent From Industrial Park/SEZ Is Assessable As Business Profits**

*Press Release, dated April, 2017*

The CBDT has issued Circular No. 16/2017 dated 25.04.2017 in which it has considered the issue whether income arising from letting out of premises /developed space along with other amenities in an Industrial Park/SEZ is to be charged under head 'Profits and Gains of Business' or under the head 'Income from House Property'. The issue has been the subject matter of litigation in recent years. The assessees claim the letting out as business activity and that the income arising therefrom has to be charged to tax under the head 'Profits and Gains of Business'. The Assessing Officers hold it to be chargeable under the head 'Income from House Property'.

➤ **Circular No. 15 of 2017 dated April, 2017**

Cyprus was specified as a "notified jurisdictional area" (NJA) under section 94A of the Income-tax Act, 1961 vide Notification N0.86/2013 dated 01.11.2013. The said Notification No. 86/2013 was subsequently rescinded vide Notification No. 114 dated 14.12.2016 and Notification No. 119 dated 16.12.2016 with effect from the date of issue of the notification. 2. It has been brought to notice of the Central Board of Direct Taxes that in some cases a view has been taken by the Income-tax authorities that the rescission of Notification No. 86/2013 was not with retrospective effect from 01.11.2013, For removal of doubts, it is hereby clarified that

Notification No. g6/2013 has been rescinded with effect from the date of issue of the said notification, thereby, removing Cyprus as a notified jurisdictional area with retrospective effect from 01.11.2013'.

## RECENT JUDGEMENTS



➤ **S. 37(1) – Commercial expediency**

The assessing officer being a statutory authority under the Act is bound to respect all the laws that may be made by the Parliament or may be made by the State Legislature. He has no jurisdiction to examine the Constitutional validity of any Act or the statute or a subordinate legislation which creates statutory liability upon the assessee to make the payment by way of expenditure incurred. The Assessing Officer has no authority or competence to hold that the privilege fee is not having the character of statutory fee or that the State Legislature or the State Government in exercise of its power by way of a delegated legislation, cannot decide the quantum of fee or the percentage of the revenue on the income earned from the business. If any businessman or a professional has incurred expenses by way of discharge of statutory obligation to get a licence to do business or to get a licence to undertake profession such expenditure in any case can be termed as an expenditure on account of necessity of the business or profession – CIT vs. Karnataka State Beverages Corporation Ltd. [2017] 79 taxmann.com 125 (Karnataka).

➤ **S. 2(42A) Computation of period of holding of asset**

The holding period of the asset should be computed from the date of issue of allotment letter and not

from the date of registration of agreement – Anita D. Kanjani vs. ACIT [2017] 79 taxmann.com 67 (Mumbai-Trib.)

- **The Court observed that FIR clearly mentions that the number of accused persons as 12, though only five were named.**

Supreme Court, in Fazar Ali vs State of Assam, has held that there is no inconsistency in charge sheeting and convicting persons who have not been named along with the other accused in the First Information Report.

In a criminal appeal before the apex court, one of the contentions put forth on behalf of convicts was that since the names of seven other accused were not disclosed in the FIR, they could not have been charge sheeted.

A bench comprising Justice AK Sikri and Justice Ashok Bhushan observed that the FIR clearly mentioned that 12 persons were accused and the FIR, from the very beginning, claimed that apart from five names mentioned, seven others were also accused.

The court also took note of the deposition made by the informant during his cross examination that he had told the names of other seven accused persons also to the writer who had written the FIR but, the informant, being illiterate, had put only thumb impression on the FIR. “Not naming other seven accused although, number of seven other accused were mentioned in the FIR is inconsequential and on this ground, there is no substance in the submission of the learned counsel for

the appellants that since names of other accused were not mentioned in the FIR except five names, others could not have been convicted,” the bench said. Nine out of the 12 accused in the case were convicted by the trial court in a murder case and the Gauhati High Court had upheld their conviction. The Supreme Court finally dismissed the appeal preferred by eight of them.

- **Section 50 (2) of the Income Tax Act would apply to a case where the assessee transfers one or more block of assets, the bench held.**

The Supreme Court, in Commissioner of Income Tax, Ahmedabad, vs Equinox Solution Pvt Ltd, has held that Section 50 (2) of the Income Tax Act will not apply to a case where the entire running business with assets and liabilities is sold by the assessee. In one go, as such sale cannot be considered as “short-term capital assets”.

Dismissing the Revenue’s appeal against a Gujarat High Court ruling, the bench held that provisions of Section 50 (2) of the Act would apply to a case where the assessee transfers one or more block of assets, which he was using in running of his business, and not when the entire business, as a running concern, is sold by the assessee.

Equinox Solution had sold their entire running business in one go with all its assets and liabilities to a Company called Amtrak AppliancesLtd.

While filing IT returns, the assessee had claimed deduction under Section 48 (2) of the Act, as it stood then, by treating the sale to be in the nature of “slump sale” of the going concern being in the nature of long term capital gain in the hands of assessee.

According to the assessing officer, the case of the assessee was covered under Section 50 (2) of the Act, because it was in the nature of short-term capital gain, as specified in Section 50 (2) of the Act and, hence, did not fall under Section 48 (2) of the Act, as claimed by the assessee.

- **Section 143(1)(a): Even though there was a raging controversy amongst the High Court’s on whether expenditure for raising capital is capital or revenue in nature, the judgment of the jurisdictional High Court is binding on the assessee and any view contrary thereto is a "prima facie" mistake that requires adjustment**

The assessee claimed revenue expenditure of Rs.65, 47,448/- on advertisement and public issue. However, in the Return of Income, the Company

made a claim that if the aforesaid claim cannot be considered as a revenue expenditure then alternatively the said expenditure may be allowed under Section 35D of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by way of capitalizing in the plant and machinery obtained. The Assessing Officer issued an intimation under Section 143(1) (a) of the Act on 23.02.1995 disallowing a sum of Rs.58, 92,700/- out of the preliminary expenditure incurred on public issue. He, however, allowed 1/10 th of the total expenses and raised demand on the balance amount. The intimation was challenged before the First Appellate Authority which vide order dated 01.10.1996, allowed the appeal by holding that the concept of “prima facie adjustment” under Section 143(1) (a) of the Act cannot be invoked as there could be more than one opinion on whether public issue expenses were covered by Section 35D or Section 37 of the Act. Feeling aggrieved by the order passed by the First Appellate Authority, the Revenue preferred an appeal before the Income Tax Appellate Tribunal. The Tribunal upheld the order of the Income Tax Commissioner (Appeals) and dismissed the Appeal filed by the Revenue. The Revenue preferred an appeal under Section 260-A of the Act before the High Court of Gujarat at Ahmedabad. The Division Bench of the High Court dismissed the appeal on the ground that a debatable issue cannot be disallowed while processing return of income under Section 143(1) (a) of the Act. On appeal by the department to the Supreme Court HELD:

- ❖ The Revenue relied upon the decisions of this Court in Brooke Bond India Ltd. v. Commissioner of Income Tax, W.B.III, Calcutta – (1997) 10 SCC 362 and Punjab State Industrial Development Corporation Ltd., Chandigarh v. Commissioner of Income Tax, Patiala – 1997 (10) SCC 184 to contend that the preliminary expenses incurred for public issue or for raising additional capital is only capital expenditure and not a revenue expense and, therefore, the law being settled by this Court, it would relate back and

would be held to be operative from the very inception.

- ❖ There was a divergence of opinion between the various High Courts; one view being taken by the Madras High Court in CIT v. Kisenchand Chellaram (India) (P) Ltd . – (1981) 130 ITR 385(Mad), Andhra Pradesh High Court in Warner Hindustan Ltd. v. CIT (1988) 171 ITR 224, Kerala High Court in Federal Bank Ltd. v. CIT (1989) 180 ITR 241 (Ker) and Karnataka High Court in Hindustan Machine Tools Ltd. (No.3) v. CIT – (1989) 175 ITR 220 that the preliminary expenses incurred on raising a share capital is a revenue expenditure.
- ❖ On the other hand, a contrary view was expressed by the Allahabad High Court in CIT v. Modi Spg. & Wvg. Mills Co. Ltd.-(1973) 89 ITR 304 (All) , Himachal Pradesh High Court in Mohan Meakin Breweries Ltd. v. CIT (1979) 117 ITR 505 (HP) , Delhi High Court in Bharat Carbon and Ribbon Mfg. Co. Ltd. v. CIT (1981) 127 ITR 239 (Del) , Calcutta High Court in Brook Bond India Ltd. v. CIT (1983) 140 ITR 272 and Kesoram Industries & Cotton Mills Ltd. – (1992) 196 ITR 845 , Bombay High Court in Bombay Burmah Trading Corpn. Ltd. v. CIT (1984) 145 ITR 793 , Punjab & Haryana High Court in Groz Beckert Saboo Ltd. v. CIT (1986) 160 ITR 743 (P&H) , Gujarat High Court in Ahmedabad Mfg. & Calico 4 (P) Ltd. v. CIT – (1986) 162 ITR 800 (Guj) and Alembic Glass Industries Ltd. v. CIT (1993) 202 ITR 214 (Guj) , Andhra Pradesh High Court in Vazir Sultan Tobacco c. Ltd. v. CIT (1988) 174 ITR 689 (AP) and Rajasthan High Court in CIT v. Aditya Mills (1990) 181 ITR 195 (Raj) and CIT v. Multi Metals Ltd . – (1991) 188 ITR 151 (Raj), that the said expenses are capital expenditure and cannot be allowed as revenue expenditure.
- ❖ Even though it is a debatable issue but as Gujarat High Court in the case of Ahmedabad Mfg. & Calico (P) Ltd. (supra) had taken a view that it is capital expenditure which was subsequently followed by Alembic Glass Industries Ltd. V. CIT (supra) and the registered office of the respondent assessee being in the State of Gujarat, the law laid down by the Gujarat High Court was binding.

(See Taylor Instrument Com.(India) Ltd. v. Commissioner of Income Tax (1998) 232 ITR 771, Commissioner of Gift Tax v. J.K. Jain (1998) 230 ITR 839, Commissioner of Income Tax v. Sunil Kumar (1995) 212 ITR 238, Commissioner of Income Tax v. Thana Electricity Supply Ltd. – (1994) 206 ITR 727, Indian Tube Company Ltd. v. Commissioner of Income Tax & Ors. (1993) 203 ITR 54, Commissioner of Income Tax v. P.C. Joshi & B.C. Joshi (1993) 202 ITR 1017 and Commissioner of Income Tax, West Bengal, Calcutta v. Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466). Therefore, so far as the present case is concerned, it cannot be said that the issue was a debatable one.

❖ (v) In view of the above submissions, in our considered view the order passed by the CIT (Appeals), the Income Tax Appellate Tribunal and also the order of the Gujarat High Court impugned herein cannot sustain and are set aside as they have wrongly held that the issue was debatable and could not be considered in the proceedings under section 143 (1) of the Act.

➤ **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

- alleged excess consideration paid on investment in share capital of wholly owned subsidiary re-characterized as loan
- 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-characterization 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

### GST



➤ **Central Goods and Service Tax Acts (CGST)**

*Press Release, dated April, 2017*

An Act to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows: -

Short title, extent and commencement

- (1) This Act may be called the Goods and Services Tax (Compensation to States) Act, 2017.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,

(a) “Central tax” means the central goods and services tax levied and collected under the Central Goods and Services Tax Act;

(b) “Central Goods and Services Tax Act” means the Central Goods and Services Tax Act, 2017;

(c) “cess” means the goods and services tax compensation cess levied under section 8;

(d) “Compensation” means an amount, in the form of goods and services tax compensation, as determined under section 7;

(e) “Council” means the Goods and Services Tax Council constituted under the provisions of article 279A of the Constitution;

(f) “Fund” means the Goods and Services Tax Compensation Fund referred to in section 10;

(g) “Input tax” in relation to a taxable person, means, -

(I) cess charged on any supply of goods or services or both made to him;

(ii) Cass charged on import of goods and includes the cess payable on reverse charge basis;

(h) “Integrated Goods and Services Tax Act” means the Integrated Goods and Services Tax Act, 2017;

(I) “integrated tax” means the integrated goods and services tax levied and collected under the Integrated Goods and Services Tax Act;

(j) “Prescribed” means prescribed by rules made, on the recommendations of the Council, under this Act;

(k) “Projected growth rate” means the rate of growth projected for the transition period as per section 3;

➤ **Rules for Chapters IV to XVI are notified**

Central Government vide notification No. 10 has notified rules for Determination of value of supply, Input tax credit rules, Tax Invoice, debit and credit notes rules, Accounts and Records, Returns, Payment of Taxes, Refund, Assessment and Audit, Advance Ruling, Appeals and Revision, Transition Provisions, Anti-profiteering and E-way Rules. To further amend

these rules, separate notification No. 15/2017 has also been issued.

➤ **Notification on number of HSN digits required on tax invoice**

Central Board of Excise and Customs has held that registered person having aggregate turnover in the previous year upto Rs. 1.5 crore is not required to mention HSN code on the tax invoice. If the aggregate turnover is between Rs. 1.5 crore to 5 crore, then only 2 digits of HSN Code shall be mentioned and further, if aggregate turnover in previous year exceeds 5 crore then, only 4 digits of HSN code shall be mentioned in the tax invoice.

➤ **Interest rates for delayed payments under GST**

Central Government has notified the rate of interest of 18% p.a on delayed payment of taxes under GST, rate of 24% p.a in case undue and excess claim of input tax credit or undue and excess reduction in output tax liability. Where refund is withheld, taxpayer shall be entitled to rate of interest of 6% p.a and in case of further delay of 60 days in release in refund, taxpayer shall be paid additional interest of 6% p.a

➤ **Notification issued for conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax**

The CBEC has notified categories of registered taxpayers who shall be eligible for furnishing letter of undertaking instead of bond and also specified that such persons shall be free from any prosecution or offence under CGST or under any existing law.

➤ **Bond/ Letter of Undertaking allowed to be furnished manually with Jurisdictional Deputy/Assistant Commissioner**

To ease out the difficulty faced in filing online Form GST RFD – 11 for furnishing information on Bond/Letter of Undertaking for export of goods or services without payment of Integrated Tax, Central Board of Excise & Customs („CBEC“) vide its circular has allowed the filing of such forms manually till the module for furnishing of Form RFD – 11 is available on the common portal. For this CBEC has



stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter shall be done by the jurisdictional Deputy/Assistant Commissioner.

➤ **Relax! Penalty for filing income tax return after due date is only applicable from FY 2017-18**  
*Press Release, dated April, 2017*

The government has introduced a maximum fee amount of Rs. 10,000 for delayed filing of income tax return by individuals in the last budget presented in February this year.

However, you need not worry just yet. This fee is applicable with effect from April 1, 2018 and will not apply for returns filed for FY2016-17 for which the deadline is July 31, 2017. A new section 234F has been inserted by the government in the Income Tax Act. As per this section, an individual would have to pay a fee of up to Rs 10,000 for filing income tax return after the due dates specified in section 139(1) of the Act.

The fee to be levied is based on the time period of delay which is as follows:

- (i) A fee of Rs 5,000 in case returns are filed after the due date but before the December 31 of the relevant assessment year or
- (ii) Rs. 10,000 in case it is filed after December 31 of the relevant assessment year. However, as a relief to the taxpayers earning not more than Rs 5 lakh the maximum penalty will be Rs. 1000, says Abhishek Soni, CEO, Tax2win.in For the purpose of filing income tax returns, financial year (FY) refers to the year in which you have earned the income through various sources such as salary, rent etc.

The financial year immediately following the above mentioned year is the assessment year for the preceding FY. You are required as per income tax rules to file your income tax returns for the income earned in a financial year in the related assessment year.

This penalty will be applicable from assessment year April 1, 2018 and onwards and therefore apply to returns filed after this date. This means that all income tax returns to be filed for the financial year 2016-17 or assessment year 2017- 18 and before will not come under the purview of this section

Currently, section 271F allows an assessing officer at his sole discretion to levy penalty of Rs 5,000 only if an individual fails to file his/her return before the end of relevant assessment year. This section will not be applicable from assessment year 2018-19 and thereafter but will be applicable for returns filed for FY2016-17 and before.

However, the current provisions of section 234A will still be applicable along with the newly introduced fees. According to Section 234A, simple interest is levied at the rate of 1% per month or part of it on any tax amount if not paid within due dates.

This interest will be payable for the period starting from due date of filing return till the date the return is filed. In case the return has not been filed at all then interest will be calculated from the due date till the date of completion of assessment order passed by the assessing officer.

However, the amount already paid via advance tax or TDS will be subtracted from the total tax payable plus interest along with the fees, applicable from April 1, 2018, as per section 140A of the Act. Abhishek further adds, "You will also be required to pay this fee along with the self-assessment tax. Since all the new changes will be applicable from assessment year 2018-19 and onwards so even if you have missed the deadlines for earlier income tax returns, the penalty of maximum of Rs 10,000 will not be applicable, says, Soni.

➤ **Applicability of Representational Services provided by advocates to be covered under Reverse Charge**

The CBEC has clarified vide press release that legal service has been defined to mean any service

provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority. Legal Services provided either by individual advocate including a senior advocate or a firm of advocates is liable for payment of GST under Reverse Charge by the business entity.

➤ **Clarification on services provided by Educational Institute**

The CBEC has clarified vide press release that education upto Higher Secondary School level does not suffer GST on output services and also on most of the important input services. Some of the input services like transport, canteen etc. provided by private players to educational institutions were subject to service tax in pre-GST era and the same is continued in GST regime.

➤ **Press Release On Indirect Tax Collections**

1. The indirect tax collections (Central Excise, Service Tax and Customs) in FY 2016-17 are at Rs 8.63 lakh crore, which is 22.0% higher than the actual revenue receipts in FY 2015-16. Till March 2017, about 101.35% of the Revised Estimates (RE) of indirect taxes for Financial Year 2016-17 has been achieved. 2. As regards Central Excise, net tax collections stood at Rs. 3.83 lakh crore during FY 2016-17 as compared to Rs.2.86 lakh crore in the previous Financial Year, thereby registering a growth of 33.9%. 3. Net Tax collections on account of Service Tax during FY 2016-17 stood at Rs. 2.54 lakh crore as compared to Rs.2.11 lakh crore in the previous Financial Year, thereby registering a growth of 20.2%. 4. Net Tax collections on account of Customs during FY 2016-17 stood at Rs. 2.26 lakh crore as compared to Rs. 2.10 lakh crore in the previous Financial Year, thereby registering a growth of 7.4%.

➤ **Goods and Services Tax (GST) rate for specified items for Physically Challenged Persons**

As per the press release issued by the Government of India, Assistive devices and rehabilitation aids for physically challenged persons have been kept at the concessional 5% GST rate. Council has released the

list of 22 items where GST rate of 5% shall be charged. Though the raw material used for manufacturing these devices and equipment's is 18%, the domestic manufacturer shall be entitled to claim refund of the accumulated input tax credit.

## CORPORATE LAWS

### SEBI



➤ **Consultation Paper on permitting Category III Alternative Investment Funds (AIFs) in the commodity derivatives market**

❖ Objective

- 1.1. To solicit comments from public on proposal pertaining to permitting participation by Category III Alternative Investment Funds (AIFs) in the commodity derivatives market.

❖ Background

- 2.1. The Indian Commodity derivatives market, at present, is running sans any institutional participation thereby is lacking in the desired liquidity and depth which is one of the key element for the efficient price discovery and price risk management. In the past, various committees have recommended for participation of institutional investors in the commodity derivatives markets, which would help in improving the quality of price discovery, thereby leading to better price risk management.
- 2.2. SEBI had constituted an advisory committee known as Commodity Derivatives Advisory Committee (CDAC) to advise SEBI for effectively regulating and developing the commodity derivatives market. CDAC has advised that the commodity derivatives market should be opened up to institutional

participation both domestic as well as international in a phased manner.

- 2.3. Based on the recommendations of CDAC and feedback received from various stakeholders, it is being proposed to allow participation of category III AIFs in the commodity derivatives market. Category III AIF's are those AIF's which employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives.

### ❖ 3. Proposal:

- 3.1. The participation of Category III AIFs proposed to be subjected to the following conditions:
  - 3.1.1. Category III AIFs may participate in all commodity derivatives products being traded on the commodity derivatives exchanges as 'clients' and shall be subjected to all the rules, regulations and instructions as may be applicable to clients, issued by SEBI from time to time.
  - 3.1.2. Category III AIFs shall invest not more than ten percent of the investable funds in one underlying commodity.
  - 3.1.3. Category III AIFs may engage in leverage or borrow subject to consent from the investors in the fund and subject to a maximum limit, as specified by the SEBI from time to time. As specified in SEBI circular CIR/IMD/DF/10/2013 dated July 29, 2013, presently, the leverage of a Category III AIF shall not exceed 2 times of the NAV of the fund.
  - 3.1.4. The category III AIFs shall have position limits as applicable to the clients.
  - 3.1.5. Category III AIFs shall make disclosure in private placement memorandum issued to the investors about investment in commodity derivatives and shall take consent of

existing investor if such AIFs intend to invest in commodity derivatives.

- 3.1.6. In case the AIF receives investment from a person resident outside India, AIF shall comply with such conditions or guidelines that may be stipulated or issued by RBI and SEBI from time to time.
  - 3.1.7. The Category III AIF shall be subject to the reporting requirements as may be specified by SEBI.
  - 3.1.8. The participation of Category III AIF shall be subject to the compliance of the provisions of SEBI (Alternative Investment Funds) Regulations, 2012 and circulars, guidelines, directives etc. issued there under from time to time.
- ❖ Public Comments:
- 4.1. Comments from public are invited on the proposal contained in this paper and same should reach SEBI latest by May 20, 2017. The comments may be sent by email to [cdmrd\\_dmp@sebi.gov.in](mailto:cdmrd_dmp@sebi.gov.in) or alternatively may be sent to following address:

## FEMA



### ➤ Security Substitution Facility for term repos conducted by Reserve Bank of India under the Liquidity Adjustment Facility

**RBI/2016-17/274**

**FMOD.MAOG.No.120/01.01.001/2016-17**

As announced in the First Bi-monthly Monetary Policy Statement for 2017-18, it has been decided to

allow substitution of collateral (security) by the market participants during the tenor of the term repos conducted by Reserve Bank of India under the Liquidity Adjustment Facility, from April 17, 2017. 2. The securities offered for substitution by the market participants shall be of similar market value based on the latest prices published by the Fixed Income Money Market and Derivatives Association of India (FIMMDA). 3. The facility will be available in the e-kuber portal from Monday to Friday between 9:00 a.m. and 5:00 p.m. on all working days in Mumbai. 4. Market participants facing genuine technical problem on any specific day can submit the security substitution request through e-mail or by fax (no. 022-22630981) before 4:45 p.m. 5. An illustration regarding security substitution is furnished in the Annex.

#### ➤ Filings for Foreign Venture Capital Investors (FVCI) made online

SEBI, vide its circular dated 6 July 2017, decided to introduce online system for registration, reporting and other compliances for FVCI. The online system shall facilitate ease of operations and ensure greater accuracy. It is made functional from 1 July 2017. Activation email has been sent to existing FVCI to activate online accounts

#### ➤ Govt Servant to get salary directly in bank & Account

*Press Release, dated April, 2017*

G.S.R. 412(E).—In exercise of the powers conferred by clause (1) of article 283 of the Constitution, the President hereby makes the following further amendments to the Central Government Account (Receipts and Payments) Rules, 1983, namely:—

1. (1) these rules may be called the Central Government Account (Receipts and Payments) Amendment Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette. 2. In the Central Government Account (Receipts and Payments) Rules, 1983,—

(I) in rule 33,—a) in sub-rule (3), for clause

(i), the following clause shall be substituted, namely:—

“(i) All payments to Government servants, including salary payments, shall be made by electronically signed payment advices for direct credit to their bank accounts, subject to availability of banking facilities:

Provided that a one-time relaxation may be granted for payment by other recognised modes in cases of hardship where the reasons are duly approved by competent authority”;

(b) Clause (iii) shall be omitted.

## POLICY WATCH



### **Delhi HC stays 14% service tax on senior advocates**

The Delhi High Court stayed the government's decision to impose a 14% service tax on senior lawyers, who are so designated by either the high courts or the Supreme Court because of their stature or knowledge of law.

The union budget had withdrawn the service tax exemption given to services offered by these senior advocates to an advocate or partnership firm of advocates providing legal service; and people represented on arbitral tribunals.

The tax had been objected by lawyers who argued that it would leave them at the mercy of the inspector raj in the tax department. The levy would lead to an increase in fees charged by them from clients, they claimed.

➤ **Government would require Rs 6 lakh crore to train 300 million people**

Skills development minister Rajiv Pratap Rudy urged industry to partner with the government to achieve the robust target of imparting skills to 400 million workforces over the next four years

Rudy said estimate suggests that government would require Rs 6 lakh crore to train 300 million people at an average cost of training at Rs 20000. The newly created skills development ministry by the BJP-led NDA government at the Centre has been allocated Rs 1700 crore for 2016-17.

Budget 2016-17 had announced government setting up of 1500 multi-skill training institutes in the country to impart skills training to 400 million people over the next few years.

➤ **Government to use 'buying power' to procure goods at cheaper rates**

Government, the largest consumer of goods and services in the country, proposes to use its "buying power" to negotiate competitive rates from suppliers and service providers.

Finance Minister Arun Jaitley in his Budget speech had said to bring more transparency and efficiency the Director General of Supplies and Disposal (DGS&D) will establish a technology driven platform to facilitate procurement of goods and services.

The Commerce Ministry has proposed to transfer DGS&D into GeM for procurement of goods and services by government and its agencies. In 2015-16, different government departments and agencies had floated about 5.7 lakh e-tenders valued at Rs 4.04 lakh crore.

➤ **Government rolls back restrictions on withdrawal of provident fund**

This is the second major stepback by the government on provident fund in less than two months and comes close on the heels of it withdrawing the budget announcement of imposing tax on withdrawal from Employee Provident Fund (EPF) account.

"The withdrawal restriction imposed under the EPF scheme was at behest of trade unions but now since they don't want it we have withdrawn the notification dated February 10," labour secretary Shankar Agarwal said. The complete rollback comes in the midst of protests by labour unions in several parts of the country against the bar on withdrawing employer's contribution.

The February 10 notification had restricted the withdrawal of employers' contribution of 3.67% and interest earned on it under the EPF scheme till retirement or 58 years instead of 54 years earlier.

Under the existing rule, employees can withdraw the full PF balance if he or she is out of employment for continuous 60 days. That includes 12% employees' contribution, 3.67% contribution from the employer and interest earned on this in any given year.

➤ **Government considering proposal to liquidate some loss-making PSUs**

The government is considering a proposal to liquidate some loss-making PSUs while protecting the interest of their employees who may be offered "lucrative" payouts. In line with recommendations of Expenditure Management Commission, a proposal for liquidating some loss-making PSUs is being examined, sources said.

Liquidation should be done in a manner that it does not hurt interest of employees and is a win-win for both government and the staff, sources added.

Some of the companies include, Bharat Gold Mines, Tannery and Footwear Corporation of India, Cycle Corporation of India, Mining and Allied Machinery Corporation, National Bicycle Corporation of India, Bharat Process and Mechanical Engineers, Weighbird India and Bharat Brakes & Valves.

The government aims to collect Rs 56,500 crore through disinvestment in PSUs this fiscal, as per Budget 2016-17. Of the total budgeted proceeds, Rs 36,000 crore is estimated to come from minority stake sale in PSUs and the remaining Rs 20,500 crore from strategic sale in both profitable and loss-making companies.

➤ **Government's model bill on water to stress on storage creation**

The Centre is drafting a model bill that would lay stress on creating large-scale rainwater storage facilities, efficient allocation of the valuable resource to states and involvement of the local populace in conservation efforts.

The bill, guidelines of which will not be binding on states, will also suggest governments to adopt a cropping pattern based on rainfall received there.

The Union government is to come up with the bill at a time when parts of 10 states, especially Maharashtra, Karnataka, Telangana, Chhattisgarh and Jharkhand, are facing drought-like conditions. According to Central Water Commission, water level in 91 major reservoirs across the country has dipped to 22 per cent of their total capacity.

States like Punjab, Haryana, Rajasthan and Delhi are staring at a serious threat due to decline in groundwater levels. Among southern states, 374 units in Tamil Nadu were in "extreme" category.

➤ **Government works to encourage home stays, promote tourism**

The government is working on relaxing rules to encourage people to offer homestays to tourists, help make up for the massive shortage of 1.9 lakh hotel rooms in the country and get gainfully employed in the true spirit of its 'Start-Up India' programme.

At present, a homestay has to be licensed by the state government, the licence needs an annual or bi-annual renewal and the facility is required to pay service tax and other levies at commercial rates.

The Centre's move follows a presentation by a group of eight secretaries including Zutshi to Prime Minister Modi in January, a copy of which was accessed by ET.

The group proposed a big push to homestays as "tourism sector specific interventions" The group proposed that homestays not be charged service tax or commercial levies and that their licensing process be made online.

➤ **Government refuses recall of 1% excise duty on jewellery**

Government in Rajya Sabha today refused to budge from its stance on levying one per cent excise duty on non-silver jewellery saying luxury items cannot be kept out of tax ambit for perpetuity, prompting a walk-out by members of the Congress and SP.

Tearing into the opposition charge that imposition of the levy was killing the trade; Finance Minister Arun Jaitley refuted the allegations saying when items of common use were being taxed, how luxury items could be kept out.

"Clearances up to Rs 6 crore in a financial year (if clearances during preceding year were less than Rs 12 crore), are exempt from this duty," Jaitley said, adding "thus small jewellers and artisans are not covered within the ambit of this levy." Dismissing charges that excise duty has hit hard small artisans, the Minister said the trade has not developed such that annual turnovers of small jewelers has crossed Rs 6 crore and stressed that "this is implemented on big chains."

➤ **INDUSTRY WATCH & CORPORATE HIGHLIGHT**



**Industry  
Watch**

➤ **L&T wins Rs 2,125-crore contracts including major Karnataka highway project**

Infrastructure major Larsen & Toubro (L&T) has won contracts worth Rs 2,125 crore, including a major highway project in Karnataka.

The transportation infrastructure business has bagged a new engineering, procurement and construction order worth Rs 821 crore from the National Highways Authority of India (NHAI)," the company said in a statement.

The contract is for four-laning of the Add hole (Gundya) to Bantwal cross of NH-75 (old NH no. 48) in Karnataka. The project is scheduled be completed in 30 months and involves construction of 63 kms of four-lane dual carriage way with concrete pavement in addition to the construction of 14.5 km of service roads, two flyovers, two major bridges, 14 minor bridges, nine underpasses and a toll plaza. Larsen & Toubro is an Indian multinational engaged in technology, engineering, construction, manufacturing and financial services with over USD 15 billion in revenue.

#### ➤ Expectations of strong Q4 show lift airline stocks

The recent decline in crude oil prices is rekindling investor interest in aviation stocks. Shares of Jet Airways , Interglobe Aviation and SpiceJet rose 3-6% as companies are expected to post strong earnings in the March quarter aided by weaker crude prices and a surge in passenger traffic.

The aviation sector has been the biggest beneficiary of the slump in crude oil prices as it makes up for almost 50% of their operating costs. Airline companies saw a huge surge in share prices last year when crude oil consistently fell.

#### ➤ BHEL commissions 500 MW unit of NTPC's plant in UP

New Delhi: State-run Bharat Heavy Electricals Ltd (Bhel) today said it has commissioned 500 MW unit of NTPC's thermal power plant in Uttar Pradesh.

Bell has commissioned the 500 MW Units 6 of Ltd.'s Feroze Gandhi Unchahar Thermal power plant in Uttar Pradesh, the company said in a regulatory filing.

The project located at Unchahar in Rae Bareli district involved manufacture, supply, erection and commissioning of boiler, turbine, and generator and associated auxiliaries, among others.

Bell said that it has also commissioned existing five units of 210 MW each of the thermal plant.

Shares of BHEL closed at Rs 167, up 2.39 per cent on BSE. PRJ MR



### Bharat Heavy Electricals Limited BHEL Recruitment 2017

#### Unitech plans to raise Rs 500 crore from private equity firms

Realty firm Unitech is looking to raise about Rs 500 crore from private equity firms for the development of housing project in Noida and repay LIC's debt. Unitech would use the amount raised to clear the dues of Life Insurance Corporation of India (LIC) and development of a new housing project in Noida, they added. Unitech had last year raised about Rs 70 crore from Piramal group to complete construction of its joint venture housing project in Chennai. Unitech had last year raised about Rs 70 crore from Piramal group to complete construction of its joint venture housing project in Chennai.

#### ➤ Cairn India has indemnity from Cairn Energy on Rs 20,000 crore tax

Cairn India has full indemnity from its former promoter Cairn Energy of UK against levy of any tax for past deeds, including the two-year old Rs 20,495 crore retrospective tax demands, its new owner Anil Agarwal has said. Cairn India was in April 2014 slapped with a tax demand of Rs 20,495 crore for failing to deduct withholding tax on alleged capital gains made by its erstwhile parent company, Cairn Energy in 2006-07 when it reorganized India business.

The tax notice on Cairn India came three months after Income Tax Department using retrospective tax legislation slapped Rs 10,247 crore tax notices on Cairn Energy in January 2014. In February this year, the department issued a final assessment order seeking over Rs 29,000 crore in tax from Cairn Energy including Rs 18,800 crore in interest.

The tax demand was in respect of Cairn UK Holdings Ltd, a subsidiary of Cairn Energy Plc, transferring shares of Cairn India Holdings Ltd to Cairn India as part of an internal group reorganization in 2006-07, resulting in Rs 24,503.50 crore of capital gains, preceding an initial public offering (IPO) of shares by Cairn India.

➤ **Prices of 4G smartphones likely to drop to as low as Rs 3,000 by year-end**



Prices of 4G smartphones are likely to drop to as low as Rs 3,000 by the year end, making high-speed broadband accessible to more consumers on their handsets and providing the backdrop for the next battle among India's biggest telecom operators. The rapid reduction in handset prices is being accompanied by speedy 4G rollouts by market leader Bharti Airtel, followed by rivals Vodafone India and Idea Cellular, in anticipation of a commercial launch of similar services by Mukesh Ambani-owned Reliance Jio Infocomm.

The sharp drop in prices is being driven by two factors. First, the prospects of intense competition among operators are prompting handset makers to drop prices to make the most of anticipated demand. Second, wider adoption of 4G technology and devices in China, Taiwan, Korea, Japan, and other markets offer massive scale for chip manufacturers to produce components at much lower costs, thereby driving down production costs of the handsets.

➤ **Reliance Industrial Infrastructure's Q4FY16 net profit Rs 2.79 crore, down 51%**

Reliance Industrial Infrastructure (RIIL), a part of the Mukesh Ambani led Reliance group, reported a net profit of Rs 2.79 crore in the fourth quarter of 2015-16, down 51% on year, the company said in a release.

RIIL reported total revenue of Rs 25.2 crore in the quarter ended March, down 1.3% on year. "RIIL continues to provide infrastructure support services namely transportation of petroleum products and water through pipelines, construction machinery on hire and other support services to Reliance Industries group, with a substantial portion provided to Reliance Industries," the statement said.

➤ **Infosys stock hits 52-week high on robust guidance**

Shares of Infosys were on a high, surging over 8% in trade after company posted a strong guidance for FY2017 and delivered a strong set of numbers in March quarter earnings. The IT giant posted a net profit growth of 3.9% in QoQ terms and 4.1% sequential revenue growth. Its net profits for the quarter under review stood at Rs 3,597 crore compared with Rs 3,465 crore. Reacting to the earnings, the scrip gained 8.17% to hit its fresh 52-week high of Rs 1,267 on the BSE. The stock had rallied up to 10% till April 13. "Overall, the trend of the stock is bullish.

➤ **ICICI SECURITIES**

Revenues (US dollar) may increase 1.7% q-o-q to \$2,594 million, led by deal ramp-ups. Constant currency revenues are expected to grow 2% q-o-q, while those in rupees may decline marginally by 0.5% to Rs 17,358 corer. EBIT margins may remain unchanged q-o-q to 25.1%, led by operational efficiency offset by currency headwind. We expect Infosys to guide for 7 - 9% CC revenue growth, pricing trends, M&A strategy and deal pipeline.



## Statuary compliance calendar for the month of April 2017

<u>Due Date</u>	<u>Statuary Compliance Under Act</u>	<u>Particulars</u>
<b>10/04/2017</b>	Central Excise	<ul style="list-style-type: none"> <li>- Monthly Return in Form ER-1 (Ann-12) for other than units availing SSI exemption for March</li> <li>- Monthly Return in Form ER-2 (Ann-13) by 100% EOUs for March</li> <li>- Monthly Return in Form ER-3 (Ann-13A) for Small Scale Manufacturers, availing SSI exemption for January to March.</li> <li>- Exports – Procurement of specified goods from EOU for use in manufacture of Export goods in Form Ann-17B for DTA units, procuring specified goods from EOU for manufacture of export goods.</li> <li>- Proof of Exports in Form Ann.-19, once in a month for all exporters, exporting goods under Bond</li> <li>- Export details in Form Ann.-20, for Manufacturing following simplified export procedure.</li> <li>- Removal of excisable goods at concessional rate in Form Ann. -46 for Manufacturers receiving the excisable goods for specified use at concessional rate of duty in terms of Rules described in Col. 4.</li> <li>- Particulars in Form No. ER-8 (Ann. 13AE) for specified assesses paying 2% duty for January to March.</li> </ul>
<b>15/04/2017</b>	Provident Fund	- PF Payment for March
	Central Excise	- Cenvat Credit returns in Form Ann 13B for Registered Dealers and importer for January to March.
<b>21/04/2017</b>	ESIC	- PF Payment for March
	MVAT	MVAT Monthly Payment & Return for March MVAT Quarterly Payment & Return for January to March.
<b>25/04/2017</b>	SERVICE TAX	- Service Tax return for October to March – All Assesses.
<b>30/04/2017</b>	Income Tax	- TDS Payment / credited in the month of March
	Profession Tax	- Monthly Return (covering salary paid for the preceding month) (Tax Rs. 50,000 or more)
	Central Excise	<ul style="list-style-type: none"> <li>- Annual Production capacity of a factory in Form ER-7 (Ann. 13AD) for all Registered Manufacturers.</li> <li>- Particulars relating to clearances, electricity load etc., in Form Ann.-4 exceeding the limit of Rs. 90 lakhs of exempted clearances for small scale units availing exemption and whose turnover exceeds or has exceeded Rs. 90 lakhs in a financial year, as the case may be.</li> </ul>

### 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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# contact us

## BRANCHES / AFFILIATES:-

The head quarter of **Rajput Jain & associates**, Chartered Accountant is located in Delhi, India. Beside this Rajput Jain & associates has presence all over India, with Nepal, and United States of America, Australia, through its associates / affiliates.

### CORPORATE OFFICE

P-6/90, Connaught Place, Connaught Circus,  
New Delhi-110001, India.

Phone No: -011-23343333.

### DELHI BRANCH

204, Prakash Chamber, 6 Netaji Subhash  
Marg, Main Road Daryaganj, New Delhi-  
110002, India.

Phone No: - +91-9871857333; 011-43520194.

### UTTAR PRADESH BRANCH

B-2, Shanchar Vihar, ITI Mankapur, District  
Ghonda, Uttar Pradesh, 271308241, India.

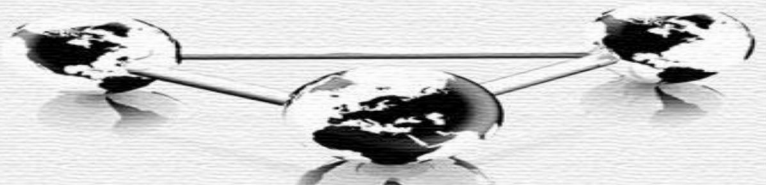
Phone No: - +91-9811322785.

### NEPAL BRANCH

Building No:-65, Ward No: - 10, Lakhe Chaur  
Marg, Kathmandu Metropolitan Kathmandu,  
Nepal.

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