



Brahmayya Bulletin

November 2016

Editorial

GST was the highlight during the recent past and continues to be the highlight for the current month as well. Goods and Services Tax Network (GSTN) has launched the portal for migration of existing taxpayers to GST regime. The Draft Model GST law along with the compensation for all the states has been issued.

This creates a landmark for the new law that integrates the entire indirect taxation that prevails currently. Amidst multiple barriers, the GST law has become a reality and the deliberations on the expected appointed date continues. All business entities continue to assess the impact as the Act surrounds the "Supply" concept as against the existing, manufacturing, place of supply or time or service concept.

The financial reporting framework has undergone two quarters of reporting and MCA continues to align differences between law and the framework. The Ind AS Transition Facilitation Group (ITFG) has also provided adequate support through FAQ based updates to Corporates and Professionals.

The Income Declaration Scheme (IDS) has also become a landmark success with huge collections to the exchequer.

We thank our readers for the continuous positive response to the Newsletter.

Policy Directive order Instruction Update Clarification
Ministry of Corporate Affairs Circular
Rule Enactment Notification Guideline
Framework Update Policy Instruction
Central Board of Direct Taxes
Order Notification Regulation Instruction
Notice Circular Update Notification
Central Board of Excise and Customs
Directive Order Notification Enactment
Pronouncement Announcement Framework Rule
Foreign Exchange Management Act
Instruction order Clarification Directive Interpretation
Institute of Chartered Accountants of India
Circular Order Clarification Directive Framework
Reserve Bank of India Notification
Announcement Framework Clarification
Notification Order Rule
Instruction Order
Framework Order
Update Circular

Ministry of Corporate Affairs (MCA)

G.S.R 1049(E) - Dated 7th November 2016

Earlier, in Rule 8(12)(b)(iv) of the Companies (Registration Offices and Fees) Rules, 2014, it was stated that AOC-4 shall be certified by Chartered Accountant in whole-time practice. But, this notification, the Rules have included that the Company Secretary in whole time practice or the Cost Accountant in whole time practice to certify the Form AOC-4. The Rules have been further modified to include the fees applicable for Surrender of DIN under Rule 11(f) of the Companies (Appointment and Qualification of Directors) Rules, 2014.

G.S.R 1075(E) - Dated 17th November 2016

MCA has made further amendments to Schedule II to the Companies Act, 2013 to clarify that relevant Ind AS shall apply for computation of amortisation amount over the useful life of intangible assets. However, where a company is not required to comply with the Ind AS, it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006. Further, this notification shall be applicable for accounting period commencing on or after 1 April, 2016.

Central Board of Direct Taxes (CBDT)

Notification No. 105/2016 - Dated 16th November 2016

Rule 12E has been inserted vide this notification which provides that the prescribed authority under Section 143(2) entitled to serve notice, shall be an Income tax Authority not below the rank of an Income Tax Officer

Notification No.108/2016 - Dated 29th November 2016

CBDT vide its notification has issued the Income-tax (34th Amendment) Rules, 2016. The rules provide that in case of any capital asset, being an immovable property declared under the Income Declaration Scheme, 2016 the period of holding shall be reckoned from the date on which such property is acquired only if the date of acquisition is evidenced by a deed registered with any authority of a State Government. In any other case, the period for which such asset is held shall be reckoned from the 1st June, 2016. These rules shall be effective from 1st June, 2016

Circular No. 37/2016 - Dated 2nd November 2016

Through this Circular Clarified that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. of the Act and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, the deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance. The issue of the claim of higher deduction on the enhanced profits has been a contentious However, the courts have generally held that if the expenditure disallowed is related to the business activity against which the Chapter VI-A deduction has been claimed, the deduction needs to be allowed on the enhanced profits. The CBDT has also directed that appeals should not be filed on this ground by the Department and appeals already filed should be withdrawn/ not pressed upon.

Circular No.38/2016 - Dated 22nd November 2016

Through this circular the issue relating to admissibility of expenditure incurred by firm on Keyman Insurance Policy premium in the case of partner. Taking view of many judgments it is a settled position that in case of a firm, premium paid by the firm on Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business is an admissible expenditure under section 37 of the Act.

Circular No.39/2016 - Dated 29th November 2016

Through this Circular the issue to treat transport, power and interest subsidies received by an Industrial Undertaking/eligible business as part of PGBP or Income from other Source within the meaning of section 80 - IB/80 - IC. The Supreme Court in Meghalaya Steels Ltd, Held that the subsidies of transport, Power and interest given by government to the Industrial Undertaking are receipts which have been reimbursed for elements of cost relating to manufacture / sale of product. Thus there is direct nexus between profit and gains of industrial undertaking. Accordingly such subsidies are part of PGBP and are not to be included in Income from other source. Therefore deduction is admissible under section 80-IB/80-IC on such revenue receipts derived the Industrial Undertaking

Central Board of Excise and Custom (CBEC) - Service Tax

Notification No.51/2016 Dated 30th November 2016

Place of Provision of Service Rules, 2012 is amended to provide that, online information and database access or retrieval services have been excluded from the definition of telecom

service in addition to broadcasting services specified earlier. Now the online information and database access or retrieval [OIDAR] services including electronic services in India, provided either by Indian service provider or by a foreign service provider would be taxable in India w.e.f 1st December 2016.

Securities and Exchange Board of India (SEBI)

SEBI/HO/MIRSD/MIRSD4/CIR/P/2016/119 - Dated 1st November 2016

SEBI has tightened rules for credit rating agencies (CRAs). The new guidelines standardises the rating criteria, method of public disclosures, the internal functioning of rating committees and disallows the suspension of ratings. The Guidelines provides that each CRA shall disclose on its website details of all the ratings it has assigned, irrespective of whether the rating was accepted by the issuer or not, even in case of non-public issues. If the company stops co-operating with the CRA and does not provide information, the CRA must continue to publish a rating accompanied with the statement, "Issuer did not cooperate; Based on best available information" in the same font size. This means a CRA cannot suspend a rating based on a lack of information provided by the issuer.

CIR/IMD/DF-1/122/2016 Dated 11th November 2016

SEBI has clarified on aspects related to day count convention for debt securities to ensure uniformity for payment of interest/redemption with respect to debt securities. The circular clarifies that if the interest payment date falls on a holiday, the payment may be made on the following working day without disturbing the subsequent coupon

schedule originally stipulated at the time of issuing the security. It is further clarified that in case of a leap year, for a half yearly interest payment, 366 days would be reckoned twice as the denominator; for quarterly interest, four times and for monthly interest payment, twelve times. The provisions of this circular shall be applicable for the debt securities issued, in accordance with SEBI (Issue and Listing of Debt Securities) regulations, 2008, on or after January 01, 2017.

Reserve Bank of India (RBI)

A.P. (DIR Series) Circular No. 15 – Dated 7th November, 2016

RBI has clarified that:

- a. Wherever hedging has been mandated by the RBI, the ECB borrower will be required to cover principal as well as coupon through financial hedges.
- b. A minimum tenor of one year of financial hedge would be required with periodic rollover duly ensuring that the exposure on account of ECB is not unhedged at any point during the currency of ECB
- c. Natural hedge, in lieu of financial hedge, will be considered only to the extent of offsetting projected cash flows /revenues in matching currency, net of all other projected outflows
- d. The designated AD Category-I bank will have the responsibility of verifying that 100 per cent hedging requirement is complied with

DCM (Plg) No.1226/10.27.00/2016-17 – Dated 8th November 2016

Rs. 500 and Rs. 1000 denominations of Bank Notes of the existing series shall cease to be legal tender with effect from November 09, 2016, to the extent specified in the Notification.

Foreign Exchange Management Act (FEMA)

A.P. (DIR Series) Circular No. 19 – Dated 17th November 2016

RBI has expanded the list of eligible debt instruments in which foreign portfolio investors (FPIs) can invest and included certificates or instruments issued by special purpose vehicles, securities issued and listed in accordance with SEBI regulations on Public Offer and Listing of Securitised Debt Instruments, 2008 and unlisted securities such as non-convertible debentures (NCDs) and bonds issued by public or private companies. Consequently FPIs will now be allowed to invest in unlisted instruments subject to a minimum residual maturity of three years. Further, RBI has also imposed restriction of the end use of funds raised, saying that issuers cannot use these funds for investment in real estate business, the capital market and in purchase of land. Further, FPIs would collectively be able to invest a maximum of Rs. 35,000 crore in these instruments and that this Rs. 35,000 crore limit would be a part of the overall limit that FPIs have to adhere to for investment in domestic corporate bonds.

Goods and Service Tax (GST) Launch of Portal for Migration

- a. Goods and Services Tax Network (GSTN) has launched the portal for migration of existing taxpayers to goods and service tax (GST).
- b. Existing taxpayers have to login to www.gst.gov.in for migration of existing registration. The steps to be followed for the migration are:
 - c. Enrolment details to be obtained from existing State VAT authorities. These enrolment details would provide the user name and password for login to GSTN.

- d. Mobile number and email address of authorised signatory needs to be provided. All future correspondence from the GST portal will be sent on this registered mobile number and email address.
- e. One-time password would be sent to email ID and mobile number which needs to be updated in the system.
- f. Taxpayer would then be able to login and fill the enrolment form.
- g. Information can be entered and details/ images can be uploaded to fill up the provisional registration form.

Revised Model Law

A revised version of the draft model GST Act, Integrated GST Act and Goods and Services Tax (Compensation to the States for loss of revenue) Bill has been issued by the Government of India.

For details regarding amendments / revisions, refer to "Our News" Section of the website.

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