



Brahmayya Bulletin

December 2016

Editorial

December, the last month of a very eventful year. A year which witnessed various events, like the launch of 20 satellites by ISRO, carrying out of a successful surgical strike by India on Pakistan, passage of 101st Constitutional Amendment Act which has enabled the foundation for implementing GST in our country, and sacking of Cyrus Mistry as Chairman of Tata Sons highlighting serious corporate governance issues in India's leading business house and also raising eye brows on the independence of independent directors. November saw Supreme court ordering cinema houses to play national anthem provoking a thought as to whether patriotism will be followed only on Court orders and not otherwise.

The major highlight, undoubtedly, was the Demonitisation Scheme brought in by the Central Government withdrawing the legal tender characteristic of Rs. 500 and Rs. 1000.

The scheme has dealt a lethal blow to the parallel economy that casted its ugly shadow on the nation's economy for long. This move will cause some temporary inconvenience to the common man but this short lived inconvenience is a price that is worth paying for the long term benefit of addressing this menace. This single move not only eliminates black money, but will also choke the activities of anti-nationals from across the border financed by fake currency; ensuring inclusive growth and national security in one go.

Also the ending of year saw the sudden and untimely demise of Tamil Nadu CM J Jayalalithaa and also the unfortunate damage caused due to cyclone Vardah on Tamil Nadu.

On regulatory front, December 2016 had loads to offer including the issue of Compromise and Arrangement Rules by MCA and introduction of Pradhan Manti Garib Kalyan Yojana vide amendment to Finance Act, 2016. Also, RBI issued many circulars for facilitating the Demonitisation Scheme and to promote digital payment by citizens.

Let us bid goodbye to 2016 on a positive note and hope and work for a successful 2017.

Wishing our readers a happy and a prosperous 2017!!!

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Update Circular

Ministry of Corporate Affairs (MCA)

Circular 13/2016 – Dated 5th December, 2016

MCA has issued clarification regarding filing of offline Challans with IEPF Authority. MCA has made it mandatory to deposit the amount in IEPF through online challans only and all Challans for IEPF will be generated online only. Further Form IEPF-1 mentioning SRN No. of Challan generated online can only be accepted.

General Circular 14/2016 – Dated 7th December, 2016

In continuance of Circular 12/2016 dated 27.10.2016, considering the difficulties faced by the stakeholders due to curfew/strikes in the State of J&K, MCA has decided to relax additional fee payable by companies having registered offices in the State of J&K on AOC 4, AOC(CFS), AOC 4 XBRL and E-form MGT-7 upto 31st December 2016.

G.S.R. 1119(E) – Dated 7th December, 2016

MCA has notified the Companies (Transfer of Pending Proceedings) Rules, 2016 which is applicable w.e.f. 15th December 2016 except rule 4, which shall come into force from 01st April 2017. All proceedings under the Act, including proceedings relating to arbitration, compromise, arrangements and reconstruction, other than proceedings relating to winding up on the date of coming into force of these rules shall stand transferred to the Benches of the Tribunal exercising respective territorial jurisdiction. Provided that all those proceedings which are reserved for orders for allowing or otherwise of such proceedings shall not be transferred.

Further, all pending applications and petitions relating to voluntary winding up of companies pending before a High Court on the date of commencement of this rule, shall continue with and dealt with by the High Court in accordance with provisions of the Act. No fee shall be payable in respect of any proceedings transferred to the Tribunal in accordance with these rules.

S.O. 3676(E) – Dated 7th December, 2016

Proceedings relating to cases other than winding-up, for which orders for allowing or otherwise of the proceedings are not reserved by the High Courts shall be transferred to the Tribunal. Provided further that all proceedings under the Companies Act, 1956 other than the cases relating to winding up of companies that are reserved for orders for allowing or otherwise such proceedings or the proceedings relating to winding up of companies which have not been transferred from the High Courts, shall be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959.

G.S.R. 1134(E) – Dated 14th December, 2016

MCA has issued the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. Through these Rules, detailed procedure, process, fees, forms, documentation relating to Compromise, Arrangements and Amalgamations, winding up are prescribed and also on the proposed manner in which the pending proceedings are to be transferred.

G.S.R. 1147(E) – Dated 15th December, 2016

MCA has notified the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016. An application to the Tribunal to confirm a reduction of share capital of a company shall be in Form No. RSC-1 and shall be accompanied with the prescribed fees and documents. The Tribunal shall, within fifteen days of submission of the application, give notice, or direct that notice be given to the Central Government, Registrar of Companies, SEBI, & creditors of the company for seeking their representations and objections, if any.

Press Information Bureau – Dated 16th December, 2016

Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 has been notified. These Regulations shall apply to the liquidation process under Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016. An insolvency professional shall be eligible to be appointed as a liquidator if he, and every partner or director of the insolvency professional entity of which he is a partner or director, is independent of the corporate debtor. The fee payable to the liquidator shall form part of the liquidation cost and the liquidator shall be entitled to such fee and in such manner as has been decided by the committee of creditors before a liquidation order is passed under sections 33(1)(a) or 33(2).

For Details on the Code, refer “Our News” Section of the Website.

S.O. 4167(E) – Dated 26th December, 2016

MCA has notified Section 248, 249, 250, 251 and 252 of Companies Act, 2013 on 26.12.2016. This chapter deals with Removal of Names of Companies from Register of Companies.

This has replaced Section 560 of erstwhile Companies Act, 1956. Accordingly, procedure for application with respect to closure of defunct company under Fast Track Exit Scheme is now ceased and replaced by new rules.

G.S.R. (E) – Dated 29th December, 2016

MCA has notified the Companies (Incorporation) Fifth Amendment Rules, 2016. Through these Rules, Form INC-2 is done away with and Form INC-7 shall be used for incorporating Part I Companies and companies with more than seven subscribers only. For incorporating OPCs and Companies (with upto seven subscribers), only SPICe (INC-32) should be used henceforth. The filing fee for SPICe has also been reduced from Rs. 2000 to Rs. 500 and number of resubmissions from three to two. Further, Form INC-22 shall not be required to be filed in case the proposed company maintains its registered office at the given correspondence address

Central Board of Direct Taxes (CBDT)

Notification 11/2016 – Dated 2nd December, 2016

According to Section 201(1) of Income Tax Act, 1961, a person shall not be deemed to be assessee in default on sum paid to a resident, if such resident has taken such income and furnished his return along with payment of tax on same and the person required to deduct tax furnishes a certificate to this effect from an accountant in such form as prescribed. As per Rule 31ACB of Income Tax Rules, 1962 such certificate shall be in Form 26A and furnished to person authorised by DG Income Tax (Systems).

Notification 12/2016 - Dated 8th December, 2016

According to Section 206C(6A) of Income Tax Act, 1961, a person, other than a person referred to in sub section (1D) shall not be deemed to be assessee in default for failing to collect tax on amount received from a buyer/licensee/lessee if such buyer/licensee/lessee has taken such income and furnished his return along with payment of tax on same and the person furnishes a certificate to this effect from an accountant in such form as prescribed. As per Rule 37J of Income Tax Rules, 1962 such certificate shall be in Form 26BA and furnished to person authorised by DG Income Tax (Systems).

Circular No. 40/2016 – Dated 9th December, 2016

CBDT has advised its Assessing Officers, not to reopen past assessments merely on the ground that the current year's turnover has increased. Mere increase in turnover, due to use of digital means, as a result of Demonetization in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years. Further, Assessing Officers shall have a reason to believe that any income chargeable to tax has escaped assessment for any assessment year, for the purpose of reopening the case under section 147 of Income Tax Act, 1961.

S.O.4061 (E) – Dated 16th December, 2016

CBDT in consultation with RBI has notified the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 which shall come into force from 17th December, 2016 and shall be valid till 31st March, 2017 and shall be applicable to every declarant under

the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016. PAN is necessary for same.

Press release - Dated 19th December, 2016

Ministry of Finance has notified vide this press release to reduce the existing rate of deemed profit of 8% under section 44AD of the Act to 6% in respect of the amount of total turnover or gross receipts received through banking channel / digital means for the FY 2016-17. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in cash. Legislative amendment in this regard shall be carried out through the Finance Bill, 2017.

Circular No. 42/2016 – Dated 23rd December, 2016

CBDT has issued Clarifications on the Direct Tax Dispute Resolution Scheme, 2016, which provides an opportunity to tax payers who are under litigation to come forward and settle the dispute in accordance with the provisions of the Scheme. CBDT has received queries from the field authorities and other stakeholders and decided to clarify the same in the form of questions and answers. It is clarified that to avail the Scheme, assessee cannot contest the constitutional validity of retrospective amendment in the High Court or Supreme Court and he has to withdraw the writ petition. Further, the search cases are not eligible for the Scheme, an assessment made consequent to search under section 143(3) read with section 153B of the Act is not eligible to avail the Scheme.

Ministry of Labour and Employment

Ministry has notified the Employees' State Insurance (Central) Third Amendment Rules, 2016 which shall come into force from 1st day of January, 2017. Rule 50 of Employees' State Insurance (Central) Rules 1950 stands amended w.e.f January 01, 2017 to increase the threshold ceiling limit from Rs. 15,000 to Rs. 21,000.

Central Board of Excise and Customs (CBEC) – Service Tax

Notification No.52/2016 – Dated 8th December, 2016

This notification further amends Mega Exemption Notification No.25/2012 to include services by an acquiring bank to any person in relation to settlement of an amount upto Rs. 2000 in a single transaction through Debit/Credit card.

F.No 137/155/2012 - Dated 9th December, 2016

It has been clarified that in indirect taxes, past assessments will not be reopened for the reason of enhanced turnover on account of usage of digital mode of payment.

Central Board of Excise and Customs (CBEC) – Customs

Circular No. 60/2016 – Dated 31st December, 2016

CBEC has mandated filling up of declaration form by NRIs for depositing Specified Banking Notes (Rs.500 & Rs.1000) on arrival and custom stamps shall be affixed on same before submitting to RBI.

Securities and Exchange Board of India (SEBI)

CFD/DCR2/CIR/P/2016/131 - Dated 9th December, 2016

SEBI has streamlined the Process for Acquisition of Shares pursuant to Tender-Offers made for Takeovers, Buy Back and Delisting of Securities. Now onwards, transfer of shares of shareholders under the tender offers would be made directly to the account maintained by the clearing corporation. Earlier, the shareholders used to submit their bids through stock brokers and subsequently, the brokers used to transfer the shares to the special account of the clearing corporation. The procedural aspects for tendering and settlement of shares under the revised system are specified in this circular.

Circular no. SEBI/HO/IMD/DF1/CIR/P/2016/140 - Dated 23rd December, 2016

SEBI has issued this circular regarding filing of forms PAS-4 and PAS-5 in case of issuance of Debt Securities on private placement basis. As a green initiative, it has been decided that with immediate effect, that all issuers proposing to issue debt securities on private placement basis in regards to filing of forms PAS-4 and PAS-5, shall be filed with SEBI in soft copy in PDF format only, in a compact disc.

Foreign Exchange Management Act (FEMA)

Notification No.FEMA. 381/2016-RB – Dated 7th December, 2016

RBI has notified Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eighteenth Amendment) Regulations, 2016 amending the foreign investment caps and entry routes in sectors like, Agriculture, Manufacturing, Defence, Broadcasting, Civil Aviation, Pharma,

A.P. (DIR Series) Circular No.23 - Dated 27th Decemeber, 2016

With a view to providing flexibility in regard to the manner in which non-convertible debentures/bonds issued by Indian companies can be acquired by FPIs, it has now been decided to allow them to transact in such instruments either directly or in any manner as per the prevalent/approved market practice.

Reserve Bank of India (RBI)

RBI/2016-17/184 DPSS.CO.PD.No.1515/02.14.003/2016-17 – Dated 16th December, 2016

Through this circular RBI seeks rationalisation of Merchant Discount Rate (MDR) for debit card transactions upto Rs. 2,000 in the face of demonetization to facilitate wider acceptance of card payments. For transactions upto Rs. 1,000, MDR is capped at 0.25% of transaction value and for above Rs.1,000 and upto Rs. 2,000, MDR is capped at 0.50% of the transaction value w.e.f January 1, 2017 till March 31, 2017.

RBI/2016-17/185 DPSS CO.PD.No.1516/02.12.004/2016-17 – Dated 16h December, 2016

RBI has issued directive that all participating banks and Prepaid Payment Instrument (PPI) issuers shall not levy any charges on customers for transactions upto Rs. 1,000 settled on the Immediate Payment Service (IMPS), USSD-based *99# and Unified Payment Interface (UPI) systems w.e.f January 1, 2017 till March 31, 2017.

RBI/2016-17/198 DBR.No.BP.BC.49/21.04.048/2016-17 - Dated 28th December, 2016

In continuation to Circular DBR.No.BP.BC.37/21.04.048/2016-17 dated November 21, 2016, it has been decided to provide 30 days in addition to 60 days provided for appropriate asset classification vide the circular with respect to Running Working capital loans (OD/CC) and Term loans for business purposes, where sanction limit is Rs. 1 crore or less and permit all Regulated Entities to defer the down grade of an account that was standard as on November 1, 2016, but would have become NPA for any reason during the period November 1, 2016 to December 31, 2016, by 90 days from the date of such downgrade for same categories of account as mentioned above. The additional time given shall only apply to defer the classification of an existing standard asset as substandard and not for delaying the migration of an account across sub-categories of NPA.

RBI/2016-17/204 DCM (Plg) No. 2142/10.27.00/2016-17 – Dated 30th December, 2016

On a review of the position, the daily limit of withdrawal from ATMs has been increased (within the overall weekly limits specified) with effect from 1st January, 2017, from the existing Rs. 2,500 to Rs. 4,500 per day per card. There is no change in weekly withdrawal limits. Such disbursements should predominantly be in the denomination of ₹ 500

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