



# Brahmayya Bulletin

September 2017

## Editorial

September – a very busy month for all professionals, with various deadlines approaching for ensuring effective compliance.

Regulators have been coming out with various amendments, thereby requiring a professional to be alert and mindful of these constant changes. The financial reporting format governed by the newly amended Indian Accounting Standards, is a key amendment. Various stakeholders, will witness the amended formats of financial reporting during AGM's conducted during the month of September. The Roadmap has not been smooth, however, the Indian Corporates have endeavored to conclude based on guidance from the Institute of Chartered Accountants of India and various relaxation provided by SEBI.

MCA has notified the restriction of number of Layers Rules. This places a check on the multi layered subsidiaries that were prevalent and restricts complex structures.

Among other notable amendments, the customs valuation norms relating to inclusion of the landing charges at the place of import places larger emphasis on clarifying aspects that were based on fictional computation.

Laws relating to employees and labourers have always been a sensitive issue across the world. Simplification of laws to facilitate ease of understanding was important. The Code of Wages bill is one such crucial regulation which is a welcome change.

Readers are requested to check the "Our News" section of our website for more detailed updates on several rules and regulations.

Happy Reading!

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)

### General Circular No. 09/2017 – Dated 5<sup>th</sup> September 2017

With reference to Notification No. G.S.R 839(E) dated 5<sup>th</sup> July, 2017 pertaining to exemption provided to unlisted public companies which is a joint venture, wholly owned subsidiary or a dormant company from requirement of appointing independent directors, it has been clarified that Joint Venture means a joint arrangement, entered into in writing, whereby the parties that have the joint control of arrangement, have rights to the net assets of the arrangement. The usage of the term is similar to that under the Accounting Standards.

### Notification No. S.O. 2938 (E) – Dated 6<sup>th</sup> September, 2017

MCA has delegated the powers and functions vested in it u/s 66(2) of the Companies Act 2013, pertaining to reduction of share capital, to the Regional Directors at Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said sub-section, if in its opinion such a course of action is necessary in the public interest.

Section 66(2) empowers the Tribunal to give notice of application made to it by the Company to the Central Government, ROC & SEBI to make their representation within a period of 3 months from the date of receipt of notice. Accordingly, Regional Director will now make representation on all such cases on behalf of the Central Government.

### General Circular No. 10/2017 – Dated 13<sup>th</sup> September, 2017

Clarification has been issued regarding compliance obligation with the Indian Accounting Standards (Ind AS) and Rule 4 of Companies (Indian Accounting Standards) Rules 2015 w.r.t payment banks, small finance banks which are subsidiaries of Corporates.

It is hereby clarified that the holding Company, if covered by the Corporate sector roadmap for implementation of IND AS, shall follow the corporate sector roadmap and if the company has got payment bank or small finance bank as its subsidiary then the subsidiary company shall follow the banking sector roadmap prescribed by RBI. However, the payment banks or small finance banks shall provide the IND AS financial data to its holding Company for the purpose of consolidation.

### Notification GSR 1172(E) - Dated 19<sup>th</sup> September, 2017

MCA has notified the amendments to the Companies (Acceptance of Deposits) Rules, 2014 which may be known as the Companies (Acceptance of Deposits) Second Amendment Rules, 2017 applicable w.e.f 19<sup>th</sup> September 2017. Ministry has allowed specified IFSC Companies to accept from its members monies not exceeding 100% of the paid-up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the registrar in Form DPT-3. Further, the maximum limit in respect of deposits to accept from members shall not apply to private companies, which are Start-up for 5 years from the date of its incorporation and companies having borrowing from banks or financial institutions or any body corporate is less than twice of its paid-up share capital or fifty crores rupees, whichever is less.

Further, by Circular dated 27<sup>th</sup> September, 2017, MCA has clarified that new Form DPT-3 shall be made available after the month of November, 2017 and the existing form can be used till such date.

### Notification GSR 1176(E)- Dated 20<sup>th</sup> September, 2017

Companies (Restriction on Number of Layers) Rules, 2017 have been notified and comes into force w.e.f 20<sup>th</sup> September 2017. On and from the date of commencement of these rules, no company, other than a company belonging to a class specified, shall have more than two layers of subsidiaries. However, companies are allowed to acquire a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country. Exemptions are provided to the Banking Company, Non Banking Financial Company, Insurance Company and to Government Company. Every Company other than a company exempted, existing on or before the commencement of these rules, which has number of layers of subsidiaries in excess of the two layers, shall file, with the Registrar a return in Form CRL-1 disclosing the details specified therein, within a period of 150 days from the date of publication of these rules in the official Gazette and shall not, after the date of commencement of these rules have any additional layer of subsidiaries over and above the layers existing on such date. Penalty provisions in case of contraventions are also being prescribed through the Rules and shall be applicable to the Company and its officers in default.

## Central Board of Direct Taxes (CBDT)

### Notification No. 08/2017 - Dated 13<sup>th</sup> September, 2017

The notification deals with the TDS on interest on deposits made under Capital Gain Accounts Scheme 1988, where the depositor has deceased.

- Interest Income accrued for and upto the period of death is required to be deducted and reported against PAN of deceased.

- Interest Income accrued for the period after death of depositor is required to be deducted and reported against PAN of legal heir, unless a declaration is filed under Rule 37BA(2) of Income Tax Rules 1962.

### Central Board of Excise and Customs (CBEC) – Customs

#### Notification No. 88/2017 (NT) - Dated 21<sup>st</sup> September, 2017

CBEC has notified Customs and Central Excise Duties Drawback Rules, 2017 to replace the transitional guidelines w.r.t GST implementation, which was valid till 30<sup>th</sup> September, 2017.

The key features of the guidelines are as follows:

- Benefit of drawback limited to basic customs duty only and excludes Integrated Tax and Compensation Cess levied on imported or excisable material used in manufacture of export goods.
- Accordingly, general rate with rate cap, wherever applicable, is provided.
- Input services and service tax is excluded from the consideration as well. Requirement to give declaration for claim of composite drawback dispensed with.

#### Notification No. 91/2017 (NT) - Dated 26<sup>th</sup> September, 2017

CBEC has revised customs valuation norms relating to inclusion of the landing charges at the place of import. This is pursuant to Hon'ble Supreme Court ruling in Wipro Ltd. V Assistant Collector(2015), whereby it was held that addition of charges to transaction value on fictional basis like 1% of FOB for loading/unloading/handling on delivery of imported goods at place of importation even where actual cost was ascertainable, is arbitrary and ultra vires of law.

Vide this notification, Customs Valuation ( Determination of Value of Imported Goods) Rules, 2007 has been amended and following are key highlights:

- The term 'place of importation' used in CVR 2007 is now defined and means the customs station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse. In view of the above definition, the transaction value of imported goods will include cost incurred upto the place of importation.
- Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation will be included in the transaction value. Therefore, loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation, shall no longer be added to the CIF value of the goods.
- In case cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is not ascertainable then such cost shall be 20% of the FOB value of the goods.
- In case where the FOB value of the goods is not ascertainable but the sum of FOB value of the goods and the cost of insurance to the place of importation is ascertainable, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall be 20% of such sum.

- Similarly, where the FOB value of the goods is not ascertainable but the sum of FOB value of the goods and the cost transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is ascertainable, the cost of insurance to the place of importation shall be 1.125% of such sum.

### Security Exchange Board of India (SEBI)

#### Circular CFD/DIL3/CIR/2017/105 - Dated 21<sup>st</sup> September, 2017

Circular No.CFD/DIL3/CIR/2017/21 dated March 10, 2017 has provided the frame work for schemes of arrangement by Listed Entities and relaxation under Rule 19 (7) of Securities Contracts (Regulations) Rules, 1957. The said rules deal with the listing requirements.

Securities Exchange Board of India has amended the Clause III (A) (1) (b) of the above circular and provided that the requirement of 25% shareholding in transferee company to be allotted to the public shareholder of transferor company post scheme, is not required if the following conditions are satisfied:

- The entity has valuation in excess of INR 1600 Crores as per the valuation report
- The value of post scheme shareholding of public shareholders of the listed entity in transferee entity is not less than INR 400 Crores.
- At least 10% of the post scheme paid up share capital of the transferee entity comprises of share allotted to the public shareholders of the transferor entity, and
- The entity shall increase the public shareholding to at least 25% within a period of the year from the date of listing of its securities and an undertaking to this effect is incorporated in the scheme.

**Circular SEBI/HO/CDMRD/DMP/CIR/P/2017/106 - Dated 26<sup>th</sup> September 2017**

Foreign Portfolio Investors have been permitted to participate in commodity derivatives contracts traded in stock exchanges in IFSC based on following conditions:

- Participation would be limited to derivatives contracts in non-agricultural commodities only.
- Contracts would be cash settled on the settlement price determined on overseas exchanges.
- All the transactions shall be denominated in foreign currency only.

**Press Release No.59/2017 - Dated 29<sup>th</sup> September, 2017**

Securities and Exchange Board of India has deferred the circular No. CIR/CFD/CMD/93/2017 dated August 04,2017 till further Notice. The Circular has mandated specific disclosures by listed entities w.r.t. defaults of payments of interest or repayment of principal amount of loans from banks/financial institutions/debt securities etc.

**Reserve Bank of India (RBI)**

**Notification RBI/2017-18/64 A.P. (DIR Series) Circular No. 5 - Dated September 22, 2017**

Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000. Amendments are as follows:

- Masala Bonds are no longer part of limits for Foreign Portfolio Investors in Corporate Debts. It will form part of External Commercial Borrowings.
- Limits has been changed for Corporate Bonds.

**Notification RBI/2017-18/66DBR.No. FSD.BC.89/24.01.040/2017-18 - Dated 25<sup>th</sup> September, 2017**

Reserve Bank of India has amended to the Master Direction - Reserve Bank of India (Financial Services provided by banks) Directions, 2016.

**Notification RBI /2017-18/68/A.P. (DIR Series) Circular 7 - Dated 28<sup>th</sup> September, 2017**

For the Quarter October-December 2017, Reserve Bank of India has increased the limits of investment by Foreign Portfolio Investors in Central Government Securities and State Development Loans by INR 80 billion and INR 62 billion respectively. The revised limit for Central Government Securities is INR 2500 billion (earlier INR 2420 billion) and State Development Loans is INR 393 billion (earlier INR 331 billion). The limit is applicable from 3<sup>rd</sup> October 2017.

**The Institute of Company Secretaries of India (ICSI)**

ICSI, recognizing the need to provide support to its members to develop the auditing acumen, techniques and tools and for inculcation of best auditing practices among its members, has constituted Auditing Standards Board (ASB) with the objective of formulating Auditing Standards of the ICSI. Accordingly, the ICSI has brought out Exposure Drafts of the following Auditing Standards:

- CSAS-1 :Auditing Standard on the Audit Engagement;
- CSAS-2 : Auditing Standard on Audit Process and Documentation;
- CSAS-3 : Auditing Standard on Forming of Opinion; and
- CSAS-4: Auditing Standard on Secretarial Audit.

**Press Release - Press Information Bureau – Dated 14<sup>th</sup> September, 2017**

MCA has approved the request of Malaysian Association of Company Secretaries (MACS) for adoption of Secretarial Standards issued by the ICSI as the benchmark in the development of Secretarial Standards of MACS.

**Ministry of Labour & Employment**

**Code on Wages, 2017- Clarification- Dated 6<sup>th</sup> September, 2017**

As part of labour law reforms, the Government has undertaken the exercise of rationalization of the 38 Labour Acts by framing 4 labour codes viz Code on Wages, Code on Industrial Relations, Code on Social Security and Code on occupational safety, health and working conditions. The Code on Wages Bill 2017 has been introduced in Lok Sabha on 10.08.2017 and it subsumes 4 existing laws, viz. the Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976. After the enactment of the Code on Wages, all these four Acts will get repealed. The Codification of the Labour Laws will remove the multiplicity of definitions and authorities leading to ease of compliance without compromising wage security and social security to the workers. Further, clause 9 (3) of the Code on Wages Bill 2017, clearly states that the Central Government, before fixing the national minimum wage, may obtain the advice of the Central Advisory Board, having representatives from employers and employees. Therefore the Code provide for a consultative mechanism before determining the national minimum wage.

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