



# Brahmayya Bulletin

November 2017

## Editorial

As we approach the close of another eventful year, requirement to ensure effective compliance reaches a new high. With the introduction of the Insolvency and Bankruptcy Code, the role of professionals is being put to a test.

As new avenues for professional growth is evident, it is important to note that strength of delivery is dependent of constant updation of knowledge. Brahmayya Bulletin ensures just that!

The Insolvency and Bankruptcy Code is a time bound law and the Insolvency and Bankruptcy Board of India (IBBI) has been pro-active in providing regular updates and clarifications. Based on the approach to the Code by promoters and potential bidders, the Insolvency Code has evidenced a landmark amendment.

As a follow up mechanism to the Insolvency Code, the RBI has also been proactive in coming out with relevant updates, to align with relevant regulations to the Insolvency Code.

Among other notable updates is the SEBI's initiative to strengthen Corporate Governance function for Mutual Funds through implementation of stringent norms including rotation of auditors.

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)

### Notification GSR 1371 (E) - Dated 7<sup>th</sup> November 2017

Company (Accounts) Amendment Rules, 2017 has been notified and Form AOC-4 has been substituted.

## Insolvency and Bankruptcy Code, 2016 (IBC)

### Notification No. IBBI/2017-18/GN/ REG 019 and No.IBBI/2017-18/GN/REG020- Dated 7<sup>th</sup> November 2017

Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2017 has been notified.

### The Insolvency and Bankruptcy Code (Amendment) Ordinance 2017 - Dated 23<sup>rd</sup> November 2017

An ordinance to amend the Insolvency and Bankruptcy Code has been passed. Details related to the ordinance are elaborated in "Our News" section of our website.

## Central Board of Direct Taxes (CBDT)

### Circular No. 27/2017 - Dated 3<sup>rd</sup> November, 2017

In response to the representations received from stakeholders regarding applicability of income tax provision to cash sale of agricultural produce by cultivators/agriculturists to traders, CBDT vide its circular has clarified that cash sale of agricultural produce by its cultivator to the trader for an amount less than INR 2 Lakhs will not:

- Result in any disallowance under section 40A(3) in the case of trader
- Attract prohibition under section 269ST in the case of cultivator; and
- Require cultivator to quote his PAN or furnish Form No. 60

### Circular No.28/2017 - Dated 7<sup>th</sup> November 2017

CBDT has issued clarification regarding indirect transfer provision under Section 9(1)(i), whereby the provisions will not be applicable in respect of the income to non-resident on account of redemption or buy-back of shares or interest held indirectly in specified funds. As per Section 9(1)(i) all income accruing or arising whether directly or indirectly through or from any business connection, assets in India or transfer of asset in India shall be deemed to accrue in India.

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

### Notification 27/2017-Central Excise NT - Dated 23<sup>rd</sup> November 2017

Central Excise (Appeals) Rules, 2001 has been amended by Central Excise (Appeals) Amendment Rules, 2017. A revision appeal shall be filed in Form EA-8 before jurisdictional Principal Commissioner (Revisionary Authority).

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

### Circular No.46/2017-Customs- Dated 24<sup>th</sup> November 2017

CBEC has clarified in respect of goods stored in a customs bonded warehouse, possibility of involvement of more than one taxable event can incur, if such warehoused goods are transferred by the importer to another person, before clearance of the goods from warehouse. Such goods are liable for payment of IGST/GST as determined under Section 20 of IGST Act, 2017 read with Section 15 of CGST Act, 2017.

## Security Exchange Board of India (SEBI)

### Circular No. SEBI/HO/IMD/DF2/ CIR/P/2017/125 - Dated 30<sup>th</sup> November 2017

In order to protect the interest of Investors in securities and strengthen the Governance Structure for Mutual Funds, the Securities and Exchange Board of India decided to implement the following:

- No independent trustee and independent director shall hold office for more than 2 consecutive terms of maximum 5 consecutive years, however, such person shall be eligible for re-appointment after a cooling-off period of 3 years. Existing independent trustees and directors who have held office for 9 years or more may continue for maximum of 1 year from date of issuance of circular and who have held office for less than 9 years may continue for the residual period.
- No Mutual Fund shall appoint an auditor for more than 2 terms of maximum 5 consecutive years, however, such auditor shall be for re-appointment after a cooling-off period of 5 years. Existing auditors who have conducted audit of Mutual Fund for 9 years or more may continue for maximum of 1 year from date of issuance of circular and who have conducted audit for less than 9 years may continue for the residual period.

## Reserve Bank of India (RBI)

**RBI/2017-18/82 DBR.No.BP.BC.92/  
21.04.048/2017-18 - Dated 2<sup>nd</sup>  
November 2017**

It is made mandatory for corporate borrowers having aggregate fund based and non fund based exposure of INR 5 Crores or above from any bank to obtain Legal Entity Identifier registration. Timelines for implementation has been issued by RBI.

**RBI/2017-18/88 A.P.(DIR Series)  
Circular No.11 - Dated 9<sup>th</sup> November  
2017**

Reserve Bank of India has issued guidelines for Simplified Hedging Facilities which are effective from 1<sup>st</sup> January 2018.

**RBI/2017-18/101 DNBR.PD (ARC)  
CC.No.04/26.03.001/2017-18 – Dated  
23<sup>rd</sup> November 2017**

The limitation cap of 26% in equity by Asset Reconstruction Companies has been exempted subject to the following Conditions:-

- ARC is in compliance of Net Owned Fund of INR 100 Crore on ongoing basis.
- Atleast half of the Board of Directors of the ARC comprises of Independent Directors.
- ARC shall frame policy on debt to equity conversion with the approval of its Board of Directors to delegate the power to Committee comprising majority of independent directors for taking decisions on proposals of debt to equity conversion.
- The equity shares acquired under scheme shall be periodically valued and marked to market. The frequency of valuation shall be at least once in month.

## Foreign Exchange Management Act (FEMA)

**Notification No. FEMA 369/2017-RB -  
Dated 14<sup>th</sup> November 2017**

Reserve Bank of India has provided the option of submitting Annual Performance Report of JV/WOS as per the un-audited accounts upon the certification by Statutory Auditors of Indian Party that law of respective country does not require auditing of books of accounts. The option of filing of APR based on un-audited balance sheet is not available in respect of JV/WOS which is under observation of the Financial Action Task Force (FATF) or in respect of which enhanced due diligence is recommended by FATF.

**Notification No FEMA 20(R)/2017-RB-  
Dated 7<sup>th</sup> November 2017**

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017 has been notified and is effective from 7<sup>th</sup> November 2017 except the proviso related to certain exception to the prior government approval requirement for the transfer in certain sector. The date of applicability of such section will be notified by Government at a later date.

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