



# **Brahmayya Bulletin**

May 2016

## Editorial

The month of May evidenced, three new and major regulatory introductions, which have a significant impact to the economy.

- Introduction of the Krishi Kalyan Cess (KKC) to support financing initiatives relating to improvement of agriculture and welfare of farmers. This Cess would impact the tax rates by marginal 0.5%.
- Introduction of the Income Declaration Scheme, 2016, an amnesty scheme encouraging assesses to come forward and declare undisclosed income and assets by paying suitable taxes. This scheme is a revolutionary step towards curbing black money and those who intend to make

good of their wrongs could willfully come forward, pay appropriate taxes on such undisclosed income and not face further prosecution in future. The Government has clarified suitably for queries raised, but the mood still seems to be grim. The collection figures targeted by the Government are enormous, we should wait and watch as the success of this scheme depends on the declarants.

- SEBI has amended the LODR Regulations to facilitate special reporting in case of qualifications by Auditors in their reports. To facilitate the Qualified Audit Report Committee's work, this amendment is proposed.

This special report is made public to ensure that the stakeholders understand the gravity of observations / qualifications made by the Auditors.

CBDT continues its efforts in transforming itself into a paperless department. Various e-initiatives are proposed to ensure ease of doing business.

Readers are requested to review, the "Our News" Section of our website for detailed analysis of circulars / notifications issued during the month.

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)

### Circular No. 06/2016 - Dated 16th May 2016

In continuation of Circular No.03/2016, keeping in view of requests received from various stakeholders, it has been decided to extend the period for which the one time waiver of additional fees is applicable to all e-forms which are due for filing by companies between the 25th March 2016 upto 31st May 2016 as well as extend the last date for filing such documents & availing benefits of waiver to 10th June 2016.

### G.S.R. 540(E) - Dated 23rd May, 2016

MCA has amended the CSR Policy Rules thereby allowing the Board of a Company to decide and undertake its CSR activities approved by the CSR Committee, through:

- a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or
- a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature

If, the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified above, such company or trust or society shall:

- have an established track record of 3 years in undertaking similar programs or projects;
- has specified the projects or programs to be undertaken;
- have the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism.

## Central Board of Direct Taxes (CBDT)

### Notification No.6/2016 - Dated 4th May 2016

Earlier, for filing e-TDS/ eTCS statements, deductors/ collectors of tax at source had to submit the statements physically at TIN facilitation centres. CBDT has now given an option of filing such statements through the income-tax e-filing portal. The procedure for filing online e-TDS / e-TCS is also specified in the notification.

### Notification No.7/2016 - Dated 4th May 2016

Earlier, a person responsible for deducting tax at source was required to submit a physical copy of Forms 15G and 15H received from the payee on a monthly basis, up to 30 September, 2015.

The CBDT substituted Rule 29C of the Income-tax Rules, 1962 with effect from 1st October, 2015. This new rule provided for online submission of a statement, capturing the details relating to Forms 15G and 15H. This notification specifies the procedure for online submission of information in relation to these statements.

### Notification No. 32/2016 - Dated 19th May 2016

The Income Declaration Scheme, 2016 is incorporated as Chapter IX of the Finance Act, 2016. The following appointed dates have been notified:

- 30th September, 2016 as the date on or before which a person may make a declaration on undisclosed income
- 30th November, 2016 as the date on or before which the tax and surcharge and penalty is payable
- 30th September, 2017 as the date on or before which the benamidar shall transfer to the declarant, being the person who provides the consideration for such asset, or his legal representative.

Insights on IDS, 2016, relevant circulars / FAQ'S issued by the Department has been dealt with as a separate article as part of "Our News" section in our Website.

### Notification No 39/2016 - Dated 31st May, 2016

This notification has amended the requirement for furnishing the challan-cum-statement in Form No.26QB dealing with transfer of immovable property other than agricultural land which was required with 7 days from the end of the month in which deduction is made to 30 days.

### Circular No. 12/2016 - Dated 30th May 2016

Due to litigations and disputes on the allowability of bad debts as deduction, CBDT, referring to the Supreme Court Judgement in the case of TRF limited, clarified that claim for bad debts under section 36(1) (vii) read with 36 (2) are allowed as deduction

if such bad debts are shown as irrecoverable in books of assessee and conditions of section 36 (2) are fulfilled.

#### **Circular No. 13/2016 - Dated 9th May 2016**

In case of returns for AY 2009-10, 2010-11, 2011-12, 2012-2013, 2013-2014 and 2014-2015 which were uploaded electronically by the taxpayer within the time allowed under section 139 and which have remained incomplete due to non-submission of ITR-V Form for verification, CBDT has permitted verification of such returns also through EVC. Such verification process must be completed by 31st August 2016. The taxpayer is also allowed to send a duly signed copy of ITR-V to the CPC, Bengaluru by such date by speed post. CBDT has also relaxed the time-frame for issuing the intimation under section 143(1) and directed that such returns shall be processed by 30th November 2016.

#### **Circular No. 15/2016 - Dated 19th May, 2016**

On account of disputes and appeals, CBDT draws reference to High Court judgements thereby clarifying that, assessee engaged in the business of printing or printing and publication are made eligible for Additional depreciation under Section 32 treating the business of printing or printing and publication as manufacturing activity.

#### **Circular No. 20/2016 - Dated 26 May, 2016**

CIT (Appeals) has extended the time limit of e-filing of appeal, in respect of persons who are required to file return electronically but could not file due to technical reasons upto 15th June 2016.

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

##### **Notification No. 26/2016 - Central Excise (N.T) - Dated 5th May, 2016**

A provider of output service shall be allowed to take CENVAT credit of the Krishi Kalyan Cess (KKC), provided also that the Cenvat credit of any duty shall not be utilised for payment of Krishi Kalyan Cess (KKC) leviable under section 161 of the Finance Act, 2016. Cenvat credit in respect of KKC shall be utilised only towards payment of KKC

##### **Notification No. 29/2016 - CE(NT) - Dated 31st May 2016**

Central Government has notified Indirect Tax Dispute Resolution Scheme Rules, 2016, effective 1st June 2016, which provides for manner of operation of the scheme and the forms to be used for making the scheme operational.

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

##### **Circular No. 194/04/2016 - ST & Notification Nos. 27, 28, 29, 30 31 / 2016 - Dated 26th May, 2016**

In order to support financing initiatives relating to improvement of agriculture and welfare of farmers, Central Government has imposed Krishi Kalyan Cess (KKC) @ 0.5% on all taxable services with effect from 1st June 2016.

- For tax payable on services covered under reverse charge or partial reverse charge, KKC would also be required to be paid along with Service Tax.

- Provisions of the Reverse Charge Notification will be applicable mutatis mutandis for the purposes of KKC also.
- KKC will not be leviable on services which are exempt from Service tax. Therefore, KKC @ 0.5% will be levied on value of all taxable services except the certain services specified.
- Value of taxable services for the purposes of the KKC will be the value as determined in accordance with the Service Tax (Determination of Value) Rules, 2006.
- In terms of Service Tax Valuation Rules, Service tax along with SBC and KKC needs to be applied on taxable value. Accordingly, effective rate of Service tax would change.

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

##### **Circular No. 22/2016-CUS – Dated 31st May, 2016**

Presently, the ex-bond bills of entry required to be filed as per section 68 of the Customs Act, 1962 for clearance of any warehoused goods for home consumption are being filed manually. In order to lend efficiency to the process of clearance of the warehoused goods and avail the benefits of automation the Central Government has provided that the importer or owner of the warehoused goods to file ex-bond bills of entry through ICES w.e.f 15th June 2016 to clear goods for home consumption.

## **Security Exchange Board of India (SEBI)**

**SEBI/ LAD-NRO/GN/2016-17/001 - Dated 25th May 2016**  
**CIR/CFD/CMD/56/2016 Dated May 27, 2016**

Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2016 have been amended to include certain matters with respect to audit reports issued by the Statutory Auditors on the annual financial statements which are submitted to the stock exchanges. SEBI has put in place a mechanism to review the audit qualifications contained in the audit reports of the listed entities. A statement on impact of audit qualifications is also to be included with the submissions made.

## **Foreign Exchange Management Act (FEMA)**

**Notification No.FEMA.368/2016RB - Dated 20th May, 2016**

Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 has been amended facilitating, that in case of transfer of shares between a resident buyer and a non-resident seller or vice-versa, not more than 25% of the total consideration can be paid by the buyer on a deferred basis within a period not exceeding 18 months from the date of the transfer agreement. For this purpose, if so agreed between the buyer and the seller, an escrow arrangement may be made between the buyer and the seller for an amount not more than 25% of the total consideration for a period not exceeding 18 months from the date of the transfer agreement or

if the total consideration is paid by the buyer to the seller, the seller may furnish an indemnity for an amount not more than 25% of the total consideration for a period not exceeding 18 months from the date of the payment of the full consideration. Provided the total consideration finally paid for the shares must be compliant with the applicable pricing guidelines.

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