



# Brahmayya Bulletin

July 2017

## Editorial

GST finally saw the light of the day on 1<sup>st</sup> July, 2017 paving the way for realization of the goal of One Nation, One Tax, One Market. It is one of the pillars to support the Government's vision of creating an environment where there would be ease of doing business. Though roll out of GST is considered as a landmark reform in the history of taxation in the country, it has affected the traders' community and business houses resulting in revamp of their business operations in order to adapt to the new system. However, it seems to be positive for the economy in the long run.

Further notifications, clarifications are expected from the concerned department in the coming days. The compliance framework is yet to be digested by the tax compliant community. We could expect extensions in the filing of returns.

The country has also witnessed first ever step taken by the Reserve Bank of India to deal with the non-performing assets, instructing the banks to file insolvency petition against the defaulting Corporate Debtors for recovery of dues.

Consequently, many bankers / lenders have filed the insolvency petition with National Company Law Tribunal (NCLT) to initiate the Corporate Insolvency Resolution Process against such companies. Presently, more than 150 instances are lying before the NCLT.

The Insolvency Law is a new law and the Government expects positive results. However, this Code still requires a lot of hand-holding by the judiciary to put in place adequate safeguards and guidelines to ensure its smooth, effective, and fair enforcement. Professionals are to gear up to ensure effective compliance.

RBI's guidance on "divergence of NPA" reporting has also added value to ensure effective disclosure norms in regard to curbing the NPA menace in India.

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 Circular  
Update

## Ministry of Corporate Affairs (MCA)

**Notification No. GSR 839 (E) [F.No.1/22/2013-CL-V] - Dated 5<sup>th</sup> July 2017**

Companies (Appointment and Qualification of Directors) Amendment Rules, 2017 has been notified and following classes of unlisted public companies have been exempted from provisions relating to appointment of independent directors:

- Joint Venture.
- Wholly owned subsidiary
- Dormant Company as defined under section 455 of the Companies Act, 2013.

Form DIR-5 has also been substituted by this notification.

**Notification No. S.O (E) [File Number 1/22/2013-CL-V-Part] - Dated 5<sup>th</sup> July 2017**

This notification has made minor amendments to Schedule IV of Companies Act 2013 dealing with Code for Independent Directors. Notable amendment is the reduction of time period for filling the vacancy of Independent Director from 180 days to 3 months.

**Notification No. GSR (E) [F. No. 1/32/2013-CL-V-Part] - Dated 13<sup>th</sup> July 2017**

Companies (Meetings of Board and Its Powers) Second Amendment Rules 2017 has been notified. Amendments notified are:

### *Rule 3(3)(e)*

Any director, who intends to participate in the meeting through electronic mode may intimate participation at beginning of the calendar year and such declaration is valid for one year. However, such director can attend meeting in person also, after intimating the Company in advance.

### *Rule 3(11)(a)*

Draft minutes recorded by Chairperson for decision taken by majority, shall be preserved till the confirmation in accordance with Rule 3(12).

### *Rule 6*

The following unlisted public companies have been exempted from constituting an Audit Committee and a Nomination and Remuneration Committee of the Board:

- Joint Venture.
- Wholly owned subsidiary
- Dormant Company as defined under section 455 of the Companies Act, 2013.

**Corrigendum S.O.2218 (E) - Dated 13<sup>th</sup> July 2017**

A corrigendum in relation to Exemption to Private Limited Company given in G.S.R. 583 (E) dated 13th June 2017 has been issued, whereby, reporting under 143(3)(i) of the Companies Act, 2013 dealing with Internal Financial Control over Financial Reporting is not applicable to Private Company:

- Which is a One-Person Company or small company; or
- Which has turnover of less than INR 50 Crores as per latest audited financial statement; and
- Which has aggregate borrowings from banks or financial institutions or anybody corporate at any point of time during the financial year of less than INR 25 Crores.

The term “or” has been replaced with the term “and” (underlined supra).

**General Circular No. 08/2017 - Dated 25<sup>th</sup> July 2017**

Ministry has clarified that certain private limited companies are exempted from reporting requirements under section 143(3)(i) of the Act and this exemption is applicable for audit reports pertaining to financial years commencing on or after April 1st 2016 and made after the date of said notification.

**Notification NO. GSR(E) [F.No.1/13/2013 CL-V] - Dated 27<sup>th</sup> July 2017**

Companies (Incorporation) Second Amendment Rules 2017 has been notified, which deals with procedural aspects in regard to shifting of registered office.

## Central Board of Direct Taxes (CBDT)

**Notification No. 57/2017 - Dated 3<sup>rd</sup> July 2017**

Finance Act 2017 has made certain amendments to section 269ST, relating to prohibition of receipt of amounts in cash exceeding INR 2 Lakhs in certain cases. Consequent to various representations received, this notification specifies that section 269ST would not apply to:

- receipts by a business correspondent on behalf of a banking company or co-operative bank in accordance with the guidelines of Reserve Bank of India.
- receipts by a white label ATM operator from retail outlet stores on behalf of banking company or co-operative bank, in accordance with authorisation of Reserve Bank of India.
- receipt from an agent by an issuer by issuer of prepaid instruments,
- receipts by a company issuing credit cards against bills raised in respect of one or more credit cards,
- receipts not included in total income under section 10(17A) of the Income Tax Act, 1961.

This amendment is applicable from 1st April 2017.

**Notification No. 58/2017 - Dated 3<sup>rd</sup> July 2017**

Changes in Form 3CD has been notified through the Income Tax (18th Amendment) Rules 2017. Details related to the amendments are elaborated in “Our News” section of our website.

**Notification No. 59/2017 - Dated 4<sup>th</sup> July 2017**

Rule 29B(1)(i) of Income Tax Rules, 1962 has been amended. Rule 29B pertains to application for grant of certificate by a person entitled to interest or any other sum on which tax has to be deducted under section 195(1) of Income Tax, Act 1961. Previously, Nil deduction could be availed in respect of interest or any other sum, other than interest on securities/dividend. Currently, Nil deduction will be available on interest on securities falling within purview of proviso to section 193.

Form 15C has also been suitably amended.

**Notification No. 61/2017 - Dated 12<sup>th</sup> July 2017**

Income Tax (20th Amendment) Rules, 2017 are notified, amending Rule 11UA relating to valuation of unquoted equity shares for the purpose of section 50CA and 56(2) of Income Tax Act, 1961. The said rules come in force from 1st April 2018 and shall apply from AY 2018-19. Details related to the amendment are elaborated in "Our News" section of our website.

**Notification No. 62/2017 - Dated 12<sup>th</sup> July 2017**

CBDT has amended Form 3CEFA which pertains to application for opting for safe harbor. This amendment is effective from 1st April 2017.

**Circular No. 22/2017 - Dated 3<sup>rd</sup> July 2017**

In respect of receipts, in the nature of repayment of loan by NBFC or HFC, the receipt of one installment shall constitute a single transaction as specified in section 269ST(b) of Income Tax Act, 1961 and all the installments paid for the loan shall not be aggregated for the purpose of determining applicability of the provisions of section 269ST.

**Circular No. 23/2017 - Dated 19<sup>th</sup> July 2017**

Clarification has been issued on the aspect of exclusion of tax component from purview of TDS in GST regime. It has been clarified that wherever "GST on services" is comprised in an amount payable to a resident is indicated separately, TDS shall be deducted on such amount without including the 'GST on services' component. GST includes CGST, SGST, IGST & UTGST.

**Circular No. 24/2017 - Dated 25<sup>th</sup> July 2017**

Clarification is issued on the computation of book profit for the purpose of levy of MAT under section 115JB of Income Tax Act, 1961 for Ind AS compliant companies.

**Central Board of Excise and Customs (CBEC) - Customs**

**Notification No. 64/2017- Dated 5<sup>th</sup> July 2017**

Central Government vide this notification exempts all goods imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act, 1975 i.e. Additional duty of customs read with section 5 of the Integrated Goods and Service Tax Act, 2017 i.e. integrated tax. Here "authorised operation" means setting up, or maintenance of the special economic zone unit, development, maintenance or operation of the special economic zone or providing any public utility service in the special economic zone by developer of such zone, or any activity of manufacture, production, processing, assembling, trading, repair, re-making, reconditioning, re-engineering, packaging of goods in such zone or any activity in connection therewith or carrying out any activity for rendering of any service, or export of such goods, or service from such zone. Accordingly, all the above specified activities are now exempted from integrated tax under IGST Act, 2017.

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

**Circular No.: SEBI/HO/IMD/DF1/CIR/P/2017/75 & 83 & 87 – Dated 6<sup>th</sup> July 2017**

To facilitate ease of operations, SEBI has introduced an Online Filing System for Foreign Venture Capital Investors, Real Estate Investment Trusts, Infrastructure Investment Trust and Alternative Investment Funds. The online system can be used for application for registration, reporting and filing in respective regulations of SEBI.

**CIR/CFD/CMD/80/2017 - Dated 18<sup>th</sup> July 2017**

As required by RBI, by its earlier Notification No. RBI/2016-17/283, all banks which have listed specified securities, are required to make certain disclosures in case of divergence in asset classification and provisioning, in the format prescribed by RBI. Accordingly, such banks need to comply with the following:

- a. Disclosure of divergence to stock exchange, wherever:
  - Additional provisioning assessed by RBI exceeds 15% of published Net Profits after Tax for the period; and/or
  - Additional gross NPA identified by RBI exceeds 15% of published incremental gross NPA for the period.
- b. The disclosure shall be annexed to annual financial results filed with stock exchanges as per Regulation 33 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

**Reserve Bank of India (RBI)**

**RBI/FIDD/2017-2018/56 Master Direction FIDD.MSME & NFS.12/06.02.31/2017-18 – Dated 24<sup>th</sup> July 2017**

Reserve Bank of India has issued the master direction for Lending to Micro, Small and Medium Enterprises (MSME) Sector.

## **Goods and Service Tax (GST)**

### **Order No.01/2017 - Dated 21<sup>st</sup> July 2017**

Filing of intimation in Form GST CMP-01, regarding composition levy has been extended up to 16<sup>th</sup> August 2017.

### **Notification No.18/2017 - Integrated Tax - Dated 5<sup>th</sup> July 2017**

Central Government has exempted all the services imported by a unit or a developer in the Special Economic Zone for authorised operations from the whole of integrated tax leviable thereon.

### **Notification No.15/2017 - Central Tax - Dated 1<sup>st</sup> July 2017**

Central Government has notified Central Goods and Services Tax (Third Amendment) Rules, 2017. Details related to the amendment are elaborated in "Our News" section of our website.

### **Notification No. 17/2017 - Central Tax Dated – Dated 27<sup>th</sup> July 2017**

Central Government has notified Central Goods and Services Tax (Fourth Amendment) Rules, 2017. Details related to the amendment are elaborated in "Our News" section of our website.

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