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RBI/FEMA

1. RBI EASES MFI NORMS TO PROVIDE CHEAPER LOANS TO POOR SCs

The Reserve Bank of India (RBI) has eased the micro finance norms. In terms of extant instructions on pricing of credit by Micro Finance Institutions (MFIs), the maximum variance between the minimum and maximum interest rate on loans cannot exceed 4 per cent.

The National Scheduled Castes Finance & Development Corporation (NSFDC) has proposed to expand its outreach by channelizing funds through select NBFC-MFIs at lower rate of interest. In order to enable NBFC-MFIs to act as channelizing agents of NSFDC, RBI has instructed that the condition relating to the maximum variance permitted shall not be applicable to loans extended by NBFC-MFIs against funding by NSFDC.

The on-lending to individuals by NBFC-MFIs out of funds of NSFDC shall only be through direct credit to their accounts with banks. - *[RBI/2015-16/196 DNBR. CC. PD. No. 069/03.10.01/ 2015-16, dated 1st October, 2015]*

2. ENHANCEMENT OF LIMIT FOR INVESTMENT BY FPIs IN GOVERNMENT SECURITIES

RBI has enhanced the limit for investment by FPIs in Government Securities (G-secs) in two tranches from October 12, 2015 and January 1, 2016. The limit will be increased from Rs. 1.53 lakh crore to Rs. 1.7 lakh crore from October 12 and Rs. 1.86 lakh crore from January 1.

The Central Government's securities in which aggregate investment by FPIs exceeds the prescribed threshold of 20% will be put in a negative investment list. No fresh investments by FPIs in Central Government securities will be permitted till they are removed from the negative list. There will be a separate limit for investment by all FPIs in State development loans (SDLs), to be raised in phases to reach 2 per cent of the outstanding stock by March 2018. - *[RBI/2015-16/198 A.P. (DIR Series) Circular No 19, dated 6th October, 2015]*

3. REVIEW OF LOAN TO VALUE RATIOS AND RISK WEIGHTS FOR INDIVIDUAL HOUSING LOANS

To boost demand for low-cost housing, RBI has reviewed the risk weight and Loan to Value (LTV) Ratios for individual housing loans.

The minimum risk weight for individual housing loans has been reduced from 50 percent to 35 per cent. The risk weight for commercial real estate has been left unchanged at 100 per cent. For loans of up to Rs. 30 lakh, the LTV ratio has been increased to 90. For loans exceeding Rs 75 lakh where loans don't exceed 75 per cent of the value, the risk weight has been kept unchanged at 75 per cent. - *[RBI/2015-16/200 DBR. BP. BC. No. 44/08.12.015/2015-16, dated 8th October, 2015]*

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4. REVISION OF BOOKING OF FORWARD CONTRACTS NORMS

In terms of Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000, resident individuals, firms and companies, to manage / hedge their foreign exchange exposures arising out of actual or anticipated remittances, both inward and outward, are allowed to book forward contracts, without production of underlying documents, up to a limit of USD 250,000 based on self-declaration.

In order to further liberalise the existing hedging facilities, RBI has allowed all resident individuals, firms and companies, who have actual or anticipated foreign exchange exposures, to book foreign exchange forward and FCY-INR options contracts up to USD 1,000,000 (USD one million) without any requirement of documentation on the basis of a simple declaration.

While the contracts booked under this facility would normally be on a deliverable basis, cancellation and rebooking of contracts are permitted. - *[RBI/2015-16/201 A. P. (DIR Series) Circular No. 20, dated 8th October, 2015]*

5. MEMORANDUM OF PROCEDURE FOR CHANNELING TRANSACTIONS THROUGH ASIAN CLEARING UNION

In view of the understanding reached among the members of the Asian Clearing Union (ACU) during the 44th Meeting of the ACU Board in June, 2015, RBI has permitted the use of the Nostro accounts of the commercial banks of the ACU member countries, i.e. the ACU Dollar and ACU Euro accounts, for settling the payments of both exports and imports of goods and services among the ACU countries.

Resultantly, payments for all eligible:

- (a) export transactions may be made by debit to the ACU Dollar / ACU Euro account in India of a bank of the member country in which the other

party to the transaction is resident or by credit to the ACU Dollar / ACU Euro account of the authorised dealer maintained with the correspondent bank in the other member country;

- (b) import transactions may be made by credit to the ACU Dollar / ACU Euro account in India of a bank of the member country in which the other party to the transaction is resident or by debit to the ACU Dollar / ACU Euro account of an authorised dealer with the correspondent bank in the other member country.

It is further reiterated that all eligible export/import transactions with other ACU member countries (except in the case of certain countries where specific exemptions have been provided by the Reserve Bank of India) shall invariably be settled through the ACU mechanism. - *[RBI/2015-16/203 A. P. (DIR Series) Circular No. 21, dated 8th October, 2015]*

6. GUIDELINES ON FINANCIAL INCLUSION FUND REVISED

Government of India (GOI) has merged the FIF and FITF to form a single Financial Inclusion Fund. The two Funds were constituted in the year 2007-08 for a period of five years. In that regard, RBI has finalised the new scope of activities and guidelines for utilisation of the new FIF in consultation with GOI. The new FIF will be administered by the reconstituted Advisory Board constituted by GOI and will be maintained by NABARD. A copy of the revised guidelines of the new Financial Inclusion Fund is provided in the circular. - *[RBI/2015-16/206 DCBR. RCBD. BPD. No. 4/19.51.010/2015-16, dated 15th October, 2015]*

7. COOPERATIVE BANKS ARE PERMITTED TO INVEST IN SHARES OF MARKET INFRASTRUCTURE COMPANIES

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RBI has permitted investment in shares of Market Infrastructure Companies (MICs) by cooperative banks as under:

- (i) Investments made by StCBs/CCBs in MICs will be reckoned as Non-SLR investments;
- (ii) StCBs/CCBs are allowed to exceed the limit for investments in Non-SLR securities, if it becomes necessary to do so for acquiring membership of MICs;
- (iii) The MICs eligible for such investments by StCBs/CCBs are Clearing Corporation of India Ltd. (CCIL), National Payments Corporation of India (NPCI) and Society for World Wide Inter-Bank Financial Tele-Communication (SWIFT). The list of eligible MICs will be updated from time to time by the Reserve Bank of India. - **[RBI/201516/209 DCBR. CO. RCBD. BC. No. 5/19.51.026/2015-16, dated 21st October, 2015]**

8. LLPs TO SUBMIT THE FLA RETURN TO RBI

In order to capture the statistics relating to Foreign Direct Investments (FDI), both inward and outward, by Limited Liability Partnerships (LLPs) in India, the RBI has instructed that henceforth, all LLPs that have received FDI and/or made direct investment abroad (*i.e.* overseas investment) in the previous year(s) as well as in the current year, shall submit the Foreign Liabilities and Assets (FLA) return by July 15 every year, in the format as prescribed in the A.P (DIR Series) Circular No. 145 dated June 18, 2014.

Further, LLPs which do not have 21-Digit CIN (Corporate Identity Number), they are advised to enter 'A99999AA9999LLP999999' against CIN in the FLA Return by RBI. - **[RBI/2015-16/210 A. P. (DIR Series) Circular No. 22, dated 21st October, 2015]**

9. RBI PROMULGATES GOLD MONETISATION SCHEME, 2015

In exercise of the powers conferred under Section 35A of the Banking Regulation Act, 1949 and in pursuance of the Central Government notification issued *vide* Office Memorandum F.No.20/6/2015-FT dated September 15, 2015, RBI has promulgated Gold Monetization Scheme (GMS), which modifies the existing Gold Deposit Scheme (GDS) and Gold Metal Loan Scheme (GML). With the introduction of GMS, RBI intends to mobilise gold held by households and institutions of the country and facilitate its use for productive purposes, and in the long run, to reduce country's reliance on the import of gold. - **[RBI/2015-16/211 Master Direction No. DBR. IBD. No. 45/23.67.003/2015-16, dated 22nd October, 2015]**

10. FOREIGN LAW FIRMS NOT PERMITTED TO OPEN ANY LIAISON OFFICE IN INDIA

Vide its latest circular, the RBI has directed that no foreign law firm shall be permitted to open any LO in India till further orders/notification in this regard. This has been done in compliance with the interim orders dated September 14, 2015 of the Hon'ble Supreme Court of India in the case of the Bar Council of India vs A.K. Balaji & Ors.

However, foreign law firms which have been granted permission prior to the date of interim order for opening LOs in India may be allowed to continue provided such permission is still in force. And the circular categorically states that no such fresh permission/ renewal of permission shall be granted by RBI/AD banks respectively till the policy is reviewed based on, among others, final disposal of the matter by the Hon'ble Supreme Court.

- **[RBI/2015-16/215 A. P. (DIR Series) Circular No. 23, dated 29th October, 2015]**

11. RBI ALLOWS NATIONAL PENSION SYSTEM AS AN INVESTMENT OPTION FOR NRIs

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With a view to enable NRIs' access to old age income security, RBI has permitted, in consultation with the Government of India, National Pension System (NPS) as an investment option for NRIs under FEMA, 1999.

Accordingly, NRIs may subscribe to the NPS governed and administered by the Pension Fund Regulatory and Development Authority (PFRDA), provided such subscriptions are made through normal banking channels and the person is eligible to invest as per the provisions of the PFRDA Act. The subscription amounts shall be paid by the NRIs either by inward remittance through normal banking channels or out of funds held in their NRE/FCNR/NRO account. There shall be no restriction on repatriation of the annuity/accumulated savings. - *[RBI/2015-16/216 A.P. (DIR Series) Circular No. 24, dated 29th October, 2015]*

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FOREIGN TRADE

1. CHANGE IN EXPORT PROMOTION RESPONSIBILITY OF SESAME SEEDS AND NIGER SEEDS

The export promotion responsibility for Sesame seed and Niger seed has been shifted from Shellac and Forest Products Export Promotion Council (SHEFEXIL) to Indian Oilseeds and Produce Export Promotion Council (IOPEPC). - *[Public Notice No. 38/2015-2020, 1st October, 2015, (DGFT)]*

2. AGENCY AUTHORIZED TO ISSUE CERTIFICATE OF ORIGIN (NON PREFERENTIAL) ENLISTED

M/s International Society for Small and Medium Enterprises (ISSME) is enlisted under Appendix 2E

of FTP, 2015-2020 for issuing Certificate of Origin (Non-Preferential). - *[Public Notice No. 39/2015-2020, 1st October, 2015, (DGFT)]*

3. TARIFF CLASSIFICATION RELATING TO NARCOTICS DRUGS AND PSYCHOTROPIC SUBSTANCES, AMENDED

The ITC (HS) code of 1-Phenyl-2- Propanone in Schedule 2 of ITC (HS) Classification of Export and Import Items has been amended. The export of the product is free subject to NOC from Narcotics Commissioner of India, Gwalior. - *[Notification No 22/ 2015-2020, 6th October, 2015, (DGFT)]*

4. EXPORT POLICY FOR RICE AMENDED

Export of rice of seed quality has been moved from 'Free' to 'Restricted' category. - *[Notification No 23/ 2015-2020, 7th October, 2015, (DGFT)]*

5. LIST OF ORGANIZATIONS EMPOWERED TO IMPORT AIRCRAFTS AND HELICOPTERS UNDER POLICY CONDITION 1 OF CHAPTER 88 OF ITC (HS) 2012, AMENDED

The list of Organisations under Policy Condition 1 of Chapter 88 of ITC (HS), 2012 – Schedule – 1 (Import Policy) stands updated. This is related to import of Aircraft and Helicopters including used/second hand aircraft and helicopters. - *[Notification No 24/ 2015-2020, 9th October, 2015, (DGFT)]*

6. DECLARATION OF INTENT UNDER MERCHANDISE EXPORTS FROM INDIA SCHEME

The Director General of Foreign Trade (DGFT), on receiving various representations from exporters and

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trade & Industry that many Custom House Agents of exporters have inadvertently ticked “N” in the reward item box while filing the shipping bills with Customs, has decided that the shipping bills shall be transmitted by CBEC to DGFT. The documents were not getting transmitted to the DGFT system, even though in many cases the item of export being eligible for MEIS but because “N” has been ticked, exporters were unable to obtain / find these shipping bills on the system for submitting claims under MEIS.

In this regard, DGFT has decided that the shipping bills, where declaration of intent ‘Y’ has not been marked and ‘N’ has been ticked inadvertently in the ‘reward item box’ while filing shipping bill in Customs for exports made between 1.4.2015 to 31.5.2015, shall be transmitted by CBEC to DGFT. - *[Public Notice No. 40/2015-2020, 9th October, 2015, (DGFT)]*

7. ALLOCATION OF QUANTITY FOR EXPORT OF SUGAR TO EU UNDER CXL QUOTA AND TO USA UNDER TARIFF RATE QUOTA

The quantity of sugar to be exported to EU under CXL Quota and to USA under TRQ up to 30.09.2016 has been notified by DGFT, as follows:

- (i) 10,000 tons (Ten thousand tons) of white sugar for export of CXL Concessions sugar to European Union (EU) for the period October, 2015 to September, 2016 and
- (ii) 8424 MTs (Eight thousand four hundred and twenty four metric tons) of raw sugar (at 98 degree pol), out of non-levy (Free Sale) quota for export under Tariff Rate Quota (TRQ) to USA for the US fiscal year 2016 (October 1, 2015 to September 30, 2016).

- *[Public Notice No. 41/2015-2020, 13th October, 2015, (DGFT)]*

8. AMENDMENT TO IMPORT POLICY OF HUMAN EMBRYO

Import policy for the item ‘Human Embryo’ classified under EXIM Code 0511 99 99 has been changed from “free” subject to an NOC from Indian Council of Medical Research (ICMR) to “Prohibited” except for research purposes based on the guidelines of the Department of Health Research. - *[Notification No 25/ 2015-2020, 26th October, 2015, (DGFT)]*

9. SERVICE EXPORTS FROM INDIA SCHEME EXTENDED UPTO 31ST MARCH 2016

The earlier notified period of services export rendered between 1-4-2015 to 30-09-2015 as per the list comprising rates and conditions for rewards under the Services Exports from India Scheme (SEIS) notified vide Public Notice No. 3/2015-20 dated 1st April, 2015 has been extended up to 31.03.2016, by the DGFT. - *[Public Notice No. 42/2015-2020, 26th October, 2015, (DGFT)]*

10. EXPORT OF FINISHED LEATHER, WET BLUE AND EI TANNED LEATHER PERMITTED FROM OTHER ICDs

Export of finished leather, Wet Blue and EI Tanned leather has been permitted through the ICDs at Jalandhar and Nagpur also. - *[Public Notice No. 43/2015-2020, 28th October, 2015, (DGFT)]*

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CORPORATE

1. LIMITED LIABILITY PARTNERSHIP RULES, 2009, AMENDED

The Ministry of Corporate Affairs (MCA) has issued the amendments to the LLP Rules, 2009, called LLP (Amendment) Rules, 2015. These amendment are effective from 19th October, 2015. It is pertinent to mention here that in an LLP, the partners have limited liabilities and the entity has features of both partnerships and corporations. Under the revised rules, the national emblem would be there in the certificate of incorporation. The same would be applicable for certificates of registration on conversion and establishment of place of business in India. Among others, entities that are converting themselves into an LLP have to intimate the same to the Ministry through a Form 14 within fifteen days of the date of registration of the Limited Liability Partnership. *[Notification F. No. 2/15/2014-CL-V, dated 15th October, 2015, (MCA)]*

2. RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATES FOR ANNUAL FILING FORMS

MCA has issued the general circular granting relaxation of the additional fees of annual filings form (i.e. MGT-7, AOC-4 and AOC-XBRL) filed till 30th November, 2015. Hence, the last date of such filings has been extended as follows:

(i) Annual Return – Form MGT-7:

Original due date: 60 days from the date of AGM.

Revised due date: 30th November, 2015.

(ii) Financial Statement (Non-XBRL) – Form AOC-4:

Original due date: 30 days from the date of AGM.

Revised due date: 30th November, 2015.

(iii) Financial Statement (XBRL) – Form AOC-4 XBRL:

Original due date: 30 days from the date of AGM.

Revised due date: 30th November, 2015.

- *[General Circular No 14/2015, 28th October, 2015, (MCA)]*

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SECURITIES

1. SEBI ISSUES NEW GUIDELINES ON OVERSEAS INVESTMENTS AND OTHER ISSUES/CLARIFICATIONS FOR AIF/VCFs

The Securities and Exchange Board of India (SEBI) has issued circular relaxing guidelines on overseas investment and providing certain other important clarifications for SEBI registered domestic funds. The Guidelines permit domestic funds registered with SEBI, either as alternative investment vehicles (AIFs) under the SEBI (Alternative Investment Funds) Regulations, 2012 (the AIF Regulations), or as venture capital funds (VCFs) under the SEBI (Venture Capital Funds) Regulations, 1996 (the VCF Regulations), to invest up to 25% of their investible funds in offshore unlisted companies which have an Indian connection. The Guidelines also provide certain important clarifications for AIFs, especially on the operation and conduct of AIF managers and sponsors. - *[CIR/IMD/DF/7/2015, 1st October, 2015, (SEBI)]*

2. RISK MANAGEMENT FRAMEWORK FOR COMMODITY DERIVATIVES EXCHANGES ISSUED

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SEBI with the objective of aligning and streamlining the risk management framework across national commodity derivatives exchanges (hereinafter referred to as exchanges) has issued circular. The comprehensive risk management framework has been finalised after a due consultative process with the exchanges.

As is well known, pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F. No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 have been deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from 28th September, 2015.

The circular applies to National Commodity Derivatives Exchanges as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015.

The provisions of the circular shall be implemented by national commodity derivatives exchanges latest by 1st January, 2016 unless specified otherwise in any specific clause of this circular. The norms specified by Forward Markets Commission shall continue to be in force to the extent not modified or repealed by the circular. -
[CIR/CDMRD/DRMP/01/2015, 1st October, 2015, (SEBI)]

3. NEW LIMITS FOR FPI INVESTMENT IN DEBT AND GOVERNMENT SECURITIES NOTIFIED

SEBI has issued a circular specifying the new limits for FPI investment in debt and Government Securities.

It is relevant to mention here that the circular has been issued taking into consideration the Fourth Bi-monthly Policy Statement for the year 2015-16, dated September 29, 2015 issued by RBI announcing a Medium Term Framework for FPI limits in Government securities in consultation with the Government of India.

Now the limits for FPI investment in debt securities shall henceforth be announced/fixed in rupee terms. The limits for investment have been enhanced as follows:

- (a) Limit for FPIs in Central Government securities would be increased to INR 129,900 cr and INR 135,400 cr on October 12, 2015 and January 01, 2016 respectively from the existing limit of INR 124,432 cr.
- (b) Limit for Long Term FPIs in Central Government securities would be increased to INR 36,600 cr and INR 44,100 cr on October 12, 2015 and January 01, 2016 respectively from the existing limit of INR 29,137 cr.
- (c) There will be separate additional limits for investment in State Development Loans (SDL) of INR 3500 cr which will be released on October 12, 2015 and January 01, 2016. Fresh purchases by FPIs in Central Government securities shall not be permitted till the corresponding security-wise investments fall below 20%.

The Central Government securities in which the aggregate FPI investment is more than 20% of the outstanding would be placed in a negative investment category in which fresh investments would not be permitted. The stipulation on minimum residual maturity shall be of three years

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which shall apply to both long term FPLs and SDLs.
- **[CIR/IMD/FPIC/8/2015, 6th October, 2015, (SEBI)]**

4. CIRCULAR ON RISK MANAGEMENT FOR REGIONAL COMMODITY DERIVATIVES EXCHANGE ISSUED

Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F. No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from 28th September, 2015.

In this regard SEBI has issued the circular specifying the norms to be complied with by such exchanges latest by 1st April, 2016.

This circular applies to Regional Commodity Derivatives Exchanges as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015. - **[CIR/CDMRD/DRMP/2/2015, 21st October, 2015, (SEBI)]**

5. FORMAT FOR UNIFORM LISTING AGREEMENT NOTIFIED

SEBI, in order to give effect to the requirements of the Regulations for different types of securities, has notified SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (**Listing Regulations**) on 2nd September, 2015. It is a simplified listing agreement which is uniform across all types of securities/listed entities.

These Listing Regulations shall come into force on the 90th day from date of publication in the official gazette i.e. 1st December 2015.

The requirement of executing a listing agreement with the Stock Exchange is specified under different regulations related with initial issuance of capital.

A listed entity which has previously entered into agreement(s) with a recognised Stock Exchange(s) to list its securities shall be required to execute a fresh listing agreement with such Stock Exchange within six months of the date of notification of Listing Regulations (i.e. 2nd September, 2015). - **[CIR/CFD/CMD/6/2015, 13th October, 2015, (SEBI)]**

6. FORMAT OF ABRIDGED PROSPECTUS AND PRICE INFORMATION OF PAST ISSUES REVISED

SEBI, observing that the abridged prospectus has become voluminous and thereby defeating the very purpose of abridged prospectus, has prescribed the disclosure requirements in the abridged prospectus in accordance with the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the Companies Act, 2013.

With a view to address the issue, SEBI has rationalized the disclosure requirements in the abridged prospectus.

The revised abridged prospectus improves the readability and contains relevant information for the investor to take well informed investment decision.

Also, the investor has the option to obtain full prospectus from the market intermediaries associated with the public issue and can also

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download from the websites of stock exchanges, merchant bankers and SEBI.

The revised format of abridged prospectus is placed at Annexure-I of this circular. The format for disclosure of price information of past issues handled by the merchant bankers has been revised and placed in Annexure-II of the circular. The Circular shall be applicable on issues opening for subscription from December 1, 2015 and a copy of abridged prospectus shall be filed with SEBI. - *[CIR/CFD/DIL/7/2015, 30th October, 2015, (SEBI)]*

COMPETITION

1. COMPLAINT OF ABUSE OF DOMINANCE AGAINST JAYPEE DISMISSED

The informants in this case had filed information under section 19(1)(a) of the Competition Act, 2002 (Act) against M/s Jaiprakash Associates Ltd. (JAL) and M/s Jaypee Infratech Ltd. (JIL), among others, alleging *inter alia* contravention of the provisions of section 4 of the Act.

The Informants alleged that JAL along with its group company *i.e.* JIL abused its dominant position by imposing highly arbitrary, unfair and unreasonable conditions in the agreements for allotment of residential apartments which blatantly violated the principles of free and fair competition and thereby contravened sections 4(2)(a) and 4(2)(e) of the Act.

The Competition Commission of India (CCI) has held that JAL/ JIL does not enjoy a position of dominance in the market for provision of services for the development and sale of residential

apartments in Noida and Greater Noida in accordance with the provisions of section 4 of the Act. Since JAL/ JIL is not in a dominant position in the relevant market, the question of examining the alleged abusive conduct does not arise. - *[Shri. Sunil Bansal & Ors. v. Jaypee Associates Ltd., & Ors., 26th October, 2015, (CCI)]*

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INDIRECT TAXES

a. CUSTOMS

1. INCREASE OF BCD ON GHEE, BUTTER AND BUTTER OIL

The Central Board of Excise and Customs (CBEC) has amended the Notification No. 12/2012-Customs dated 17.03.2012, so as to increase the basic customs duty on Butter, Ghee and Butter Oil from the present rate of 30% to 40% for a period up to and inclusive of the 31st day of March, 2016. - *[Notification No. 49/2015-Customs, dated 5th October, 2015]*

2. REDUCTION OF EXPORT DUTY ON EXPORT OF IRON ORE BY MMTC LIMITED

The CBEC has amended the Notification No. 27/2011-Customs dated 01.03.2011 so as to reduce the export duty on export of Iron Ore by MMTC Limited (only NMDC origin) to Japan and South Korea under the Long Term Agreement (LTA), from 30% to 10%, up to and inclusive of 31st March, 2018. - *[Notification No. 50/2015-Customs, dated 16th October, 2015]*

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3. INCREASE OF BCD ON WHEAT

The CBEC has amended the Notification No. 12/2012-Customs dated 17.03.2012 so as to increase the Basic Customs Duty (BCD) on wheat [CTH 1001 19 00 and 1001 99 10] from the present rate of 10% to 25% for a period up to and inclusive of 31st March, 2016. - *[Notification No. 51/2015-Customs, dated 19th October, 2015]*

4. TIRUPATI NOTIFIED AS CONTAINER DEPOT STATION

Tirupati in Andhra Pradesh has been notified as an Inland Container Depot (ICD) station for the unloading of import goods and loading of export goods or any class of such goods. - *[Notification No. 99/2015-Customs (N.T.), dated 15th October, 2015]*

5. LEVY OF ADD, ON IMPORTS OF PLAIN MEDIUM DENSITY FIBRE BOARD

Anti-dumping duty (ADD) has been levied on imports of Plain medium Density Fibre Board of thickness 6 mm and above, originating in or exported from the People's Republic of China, Malaysia, Thailand and Sri Lanka for a period of five years. - *[Notification No. 48/2015-Customs (ADD), dated 21st October, 2015]*

6. LEVY OF ADD, ON IMPORTS OF FRONT AXLE BEAM AND STEERING KNUCKLES

ADD has been levied on imports of Front Axle Beam and Steering Knuckles for medium and heavy commercial vehicles, originating in or exported from the People's Republic of China for a period of five years. - *[Notification No. 49/2015-Customs (ADD), dated 21st October, 2015]*

7. LEVY OF ADD ON IMPORTS OF HEXAMINE

ADD has been levied on imports of Hexamine, originating in or exported from the People's Republic of China and UAE for a period of five years. - *[Notification No. 50/2015-Customs (ADD), dated 21st October, 2015]*

8. LEVY OF ADD ON IMPORTS OF ALL FULLY DRAWN OR FULLY ORIENTED YARN/SPIN DRAW YARN/FLAT YARN OF POLYESTER

ADD has been levied on imports of All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (non-textured and non POY), originating in or exported from the People's Republic of China and Thailand for a period of five years. - *[Notification No. 51/2015-Customs (ADD), dated 21st October, 2015]*

9. NEW GUIDELINES ON VALUATION OF SECOND-HAND MACHINERY

The CBEC has issued the fresh guidelines for assessment of value of second-hand machinery, in supersession of the directions issued vide circular no. 4/2008 - Cus dated 12th February, 2008.

All imports of second hand machinery/used capital goods shall be ordinarily accompanied by an inspection/appraisal report issued by an overseas chartered engineer or equivalent, prepared upon examination of the goods at the place of sale. A format is prescribed, in which the chartered engineer in the country of export may give a certificate of the value, which will be accepted by Indian Customs Authorities. If this is not produced by the importer, he may get the goods valued by any of the inspection agencies in India that are listed in the Handbook of

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Procedures to the Foreign Trade Policy. If none of these is available at the location of the port, the importer may use the services of any of the engineers empanelled by the Customs Office. The format whereof is also prescribed in the circular.

The value declared by the importer shall be examined with respect to the report of the chartered engineer. Similarly, the declared value shall be examined with respect to the depreciated value of the goods determined in terms of the circular no. 493/124/86-Cus VI dated 19/11/1987 and dated 4/1/1988.

If such comparison does not create any doubt regarding the declared value of the goods, the same may be appraised under rule 3 of the Customs Valuation Rules (CVR), 2007. If there are significant differences arising from such comparison, Rule 12 of the CVR, 2007 requires that the proper officer shall seek an explanation from the importer justifying the declared value.

The proper officer may then evaluate the evidence put forth by the importer and after giving due consideration to factors such as depreciation, refurbishment or reconditioning (if any), and condition of the goods, determine whether the declared transaction value conforms to Rule 3 of CVR, 2007. Otherwise, the proper officer may proceed to determine the value of the goods, sequentially, in terms of rule 4 to 9 of the CVR, 2007. - *[Circular No. 25/2015- Customs, dated 15th October, 2015]*

10. ELECTRONIC MESSAGING FOR ISSUE OF DELIVERY ORDER INSTEAD OF A PAPER BASED DELIVERY ORDER, INTRODUCED

As a part of Government's initiatives for improving Ease of Doing Business, the CBEC has replaced the paper delivery order with an

electronic message, to save the importers' visit to obtain the delivery order. Currently the importer or his agent, upon payment of freight and delivery order charges to the shipping line or airline, is issued a delivery order which he takes to the custodian of the goods for release of the goods. However, the customs "out of charge order" and "gate pass", etc. will continue. - *[Circular No. 24/2015- Customs, dated 14th October, 2015]*

11. DIGITAL SIGNATURE CERTIFICATES MANDATORY FOR ALL IMPORTERS, EXPORTERS USING SERVICES OF CUSTOMS BROKERS TO FILE CUSTOMS DOCUMENTS FROM 01.01.2016

In order to increase coverage of digitally signed documents and subsequent phasing out of physical /manual submission of documents, the CBEC has directed that all importers, exporters using services of Customs Brokers for formalities under Customs Act, 1962, shipping lines and air lines shall file customs documents under digital signature certificates mandatorily with effect from 01.01.2016. The importers/ exporters desirous of filing Bill of Entry or Shipping Bill individually may however have the option of filing declarations/ documents without using digital signature.

Further, wherever the customs process documents are digitally signed, the Customs will not insist on the user to physically sign the said documents. - *[Circular No. 26/2015-Customs, dated 23rd October, 2015]*

12. REVISED GUIDELINES FOR LAUNCHING OF PROSECUTION AND ARREST AND BAIL IN RELATION TO OFFENCES PUNISHABLE UNDER CUSTOMS ACT, 1962

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CBEC has (vide this circular) issued the revised guidelines for launching prosecution and Arrest and Bail in relation to offences punishable under the Customs Act, 1962. This Circular supersedes the earlier guidelines issued vide Ministry's letter No. 394/71/97-Cus (AS), dated the 22nd June, 1999 on initiating prosecution and amends the monetary limits for arrest as prescribed earlier.

The monetary threshold limits for prosecution and arrest have been increased (ranging between minimum rupees twenty lakh to rupees one crore depending upon the nature of offence) considerably with a view to target high value offences.

Further, in view of this circular CBECE has issued another circular specifying the monetary threshold limit for prosecution, arrest and bail by amending para 2.3 of the existing guideline issued vide F. No. 394/68/2013-Cus (AS) dated 17.09.2013. - **[Circular No. 27/2015-Customs, dated 23rd October, 2015 & Circular No. 28/2015-Customs, dated 23rd October, 2015]**

13. DEPARTMENT CANNOT IMPOSE STRICT CONDITIONS FOR PROVISIONAL RELEASE WHEN THERE ARE ORDERS OF TRIBUNAL AND COMMISSIONER (A) IN FAVOUR OF APPELLANT: CESTAT

The relevant facts of the instant case are that an import consignment of Saffron was sought to be Ex-Bonded duty free under Notification No. 98/2009-Cus. dt. 11-09-2009 as "Food Flavours" under a DFIA License transferred in appellant's name. This DFIA License was issued against SION norm E-1 for the export of assorted confectionary products.

The benefit of DFIA notification was denied by adjudicating authority on the basis that the import of saffron as food flavour is permissible

only if the same is utilized in the export product which was not established. In appeal, the Commissioner (Appeals) rejected their case. On appeal before Tribunal, the Hon'ble CESTAT vide its order allowed appellant to produce an appropriate license for release of the goods, before the Customs. The appellant thereafter produced a fresh DFIA License transferred in their name. The said DFIA was issued against export of Biscuits issued as per SION E-5 for the export of Biscuits under the description of "Food Flavour" as mentioned in the DFIA.

In this license there was no actual user condition. However, **the DC vide its letter directed the appellant to furnish 100% PD Bond for the value of the goods and 100% Bank Guarantee for the duty foregone for the release of the goods on provisional basis.** The appellant filed appeal before the Commissioner (Appeals) who rejected the same. Hence, appeal is filed before the Hon'ble Tribunal.

The Tribunal held that order imposing 100% PD Bond/Bank Guarantee is not sustainable and directed the Customs to release the consignment within three days of the receipt of this Order by accepting the DFIA in question. - **[USMS Saffron Co Inc v. Commissioner of Customs (ACC & EXPORT) Mumbai, dated 8th October, 2015 (CESTAT)]**

b. CENTRAL EXCISE

1. EXEMPTION OF CENTRAL EXCISE DUTY ON RBD PALM STEARIN, METHANOL AND SODIUM METHOXIDE

The CBECE has amended the Notification No. 12/2012-Central Excise dated 17.03.2012 so as to exempt central excise duty on RBD Palm Stearin, Methanol and Sodium Methoxide used in the

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manufacture of specified biodiesel subject to actual user condition. - **[Notification No. 42/2015 - Central Excise, dated 19th October, 2015]**

2. ETHANOL PRODUCED ON OR AFTER 1ST OCTOBER, 2015, ADDED TO THE LIST OF ZERO-RATED ITEMS

CENVAT Credit Rules, 2004 have been amended so as to allow Input Credit of duty paid on molasses generated from cane crushed in the sugar season 2015-16 (i.e. 1st October, 2015 onwards), used for producing ethanol for supply to the public sector oil marketing companies, namely, Indian Oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd., for the purposes of blending with petrol, in terms of the provisions of S. No. 40A of the Table in notification No.12/2012-Central Excise, dated the 17th March, 2012, by including such supplies of exempted ethanol under rule 6(6) of the CENVAT Credit Rules, 2004. - **[Notification No. 21/2015-Central Excise (N.T.), dated 7th October, 2015]**

3. CENVAT CREDIT OF EDUCATION CESS CONDITIONALLY ALLOWED TO PAY SERVICE TAX

CENVAT Credit Rules, 2004 has been amended so as to allow Credit of Education Cess and Secondary and Higher Education Cess paid on inputs/input services and capital goods, to be utilized for payment of Service Tax, if received in the premises of service provider on or after 1st June 2015. - **[Notification No. 22/2015-Central Excise (N.T.), dated 29th October, 2015]**

4. NOTIFICATION OF ESSENTIAL COMPONENTS OF WIND OPERATED ELECTRICITY GENERATORS (WOEG) EXEMPTED FROM EXCISE DUTY

The CBEC has issued a clarification stating that parts and components of WOEG are exempted from excise duty under serial number 332 of notification 12/2012-CE. This will include towers, nacelle, rotor, wind turbine controller, nacelle controller and control cables. - **[Circular No. 1008/15/2015-CX, dated 20th October, 2015]**

5. MONETARY LIMITS FOR ARREST IN CENTRAL EXCISE AND SERVICE TAX REVISED

CBEC has prescribed revised monetary limits for launching prosecution under the Central Excise Act, 1944 and the Finance Act, 1994 (Service Tax cases). Prosecution can now be launched where evasion of Central Excise duty or Service Tax or misuse of Cenvat Credit in relation to offences specified under sub-section (1) of Section 9 of the Central Excise Act, 1944 or sub-section (1) of section 89 of the Finance Act, 1994 is rupees one crore or more.

Consequently, the CBEC has revised the limits for arrests in Central Excise and Service tax. Henceforth, arrest of a person in relation to offences specified under clause (a) to (d) of sub-section (1) of Section 9 of the Central Excise Act, 1944 or under clause (i) or (ii) of sub-section (1) of section 89 of the Finance Act, 1994, may be made in cases where the evasion of Central Excise duty or Service Tax or the misuse of Cenvat Credit is equal to or more than rupees one crore. - **[Circular No. 1009/16/2015-CX & Circular No. 1010/17/2015-CX, both dated 23rd October, 2015]**

6. EXEMPTION OF BULK EXPORT CARGO (SOME CASES) FROM SEALING

The CBEC has exempted the bulk cargo like iron-ore, coal, alumina concentrate, or heavy machinery, etc., from sealing in packages or

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container as these items are difficult to seal in packages or container. This has been made subject to safeguard provisions as specified in the circular. Further, a procedure has been prescribed in the circular which needs to be followed while allowing export without sealing in packages or container. - *[Circular No. 1011/18/2015-CX, dated 30th October, 2015]*

7. EXEMPTION NOTIFICATIONS ARE TO BE GIVEN STRICT INTERPRETATION AND ONUS IS ON ASSESSEE TO MAKE OUT A CLEAR CASE IN ITS FAVOUR: SC

The appellant in this case was seeking the benefit of exemption Notification No.8 /97- C.E . The apex court observed that since it is an exemption notification, onus lies upon the appellant to show that its case falls within the four corners of this notification and is unambiguously covered by the provisions thereof. It is also to be borne in mind that such exemption notifications are to be given strict interpretation and, therefore, unless the assessee is able to make out a clear case in its favour, it is not entitled to claim the benefit thereof. Otherwise, if there is a doubt or two interpretations are possible, one which favours the Department is to be resorted to while construing an exemption notification. - *[M/s Meridian Industries Ltd v. CCE, dated 27th October, 2015(SC)]*

8. BUYER OF ASSETS IS NOT SUCCESSOR IN BUSINESS AND HENCE RECOVERY OF DUES OF PREDECESSOR CANNOT BE MADE FROM PURCHASER OF ASSETS OF DEFAULTING UNIT: GUJARAT HC

Petitioner in this case was a partnership firm engaged in the manufacture of excisable goods and they purchased a plot adjacent to their unit from another unit, who is a defaulter in loan.

Hon'ble High Court held that the transfer is only of the assets and not of a going concern. The proviso to section 11 of the CE Act clearly provides that the dues of the defaulter can be recovered from the person who succeeds in such business or trade of the defaulter.

Evidently therefore, a pre-requisite for exercise of powers under the proviso to section 11 of the Act is that the successor should have purchased the business or trade of such person. Hence, the mere transfer of one or more species of assets does not necessarily bring about the transfer of the business. The Hon'ble Court held that the transfer of a business requires that the business be sold as a going concern which is clearly not the position in the present case.

Further, the court permanently prohibited the respondents from taking any action against the petitioners for recovering any amounts that may be due and payable to the Excise Department. - *[Lamifab Industries & Anr. v. UOI & Anr., dated 26th September, 2015 (Gujarat HC)]*

c. SERVICE TAX

1. PAST TAX WAIVED ON BANKS' SERVICES TO MONEY TRANSFER SERVICE OPERATORS

The Central Government has directed, that the service tax payable under section 66B of the Finance Act, 1994, on the service provided by an Indian Bank or other entity acting as an agent to the Money Transfer Service Operators (MTSO) in relation to remittance of foreign currency from outside India to India, in the said period, but for the said practice, the Bank shall not be required to be paid. - *[Notification No. 19/2015-Service Tax, dated 14th October, 2015]*

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2. SERVICE-TAX EXEMPTION ON PRADHAN MANTRI JAN DHAN YOJANA IN THE BANKING COMPANY'S RURAL AREA BRANCH AND YOGA INSTITUTIONS

The CBEC has amended the mega exemption notification 25/2012-ST so as to extend exemption from service tax to the following services, *viz.*:

- (i) Services of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, and Aadhar seeding, provided by a business facilitator or a business correspondent, or by an intermediary to such facilitator or correspondent, to a banking company with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company's rural area branch;
- (ii) Service provided by a charitable trust or institution for advancement of yoga.

- [Notification No. 20/2015-Service Tax, dated 21st October, 2015]

3. IPR NOT COVERED BY INDIAN LAWS WOULD NOT BE COVERED UNDER TAXABLE SERVICE: CESTAT

Appellant in this case were engaged in Software Development and Consultancy Services and were issued a SCN proposing levy of service tax on the royalty paid by them to M/s Unisys Corporation, USA under the category of "Intellectual Property Right Services".

Hon'ble Tribunal held that the technical know-how received by the appellant and the royalty payment made by the appellant to Unisys is nowhere established to result from the use of any Intellectual Property Right. Intellectual Property Right should be a right under the Indian Law. Intellectual Property Right not covered by the

Indian laws would not be covered under taxable service in the category of Intellectual Property Right Services. - [Tata Consultancy Services Ltd v. CST, Mumbai, dated 27th October, 2015 (CESTAT)]

4. ONE YEAR LIMITATION PERIOD WOULD NOT APPLICABLE TO REFUND APPLICATION UNLESS CESTAT CAME TO CONCLUSION THAT SERVICES RENDERED BY APPELLANT WERE IN FACT TAXABLE: DELHI HC

In this case, the only ground on which the CESTAT, New Delhi, dismissed the Appellant's Appeal was that the claim of the Appellant for refund of service tax was barred by limitation with reference to Section 11B of the Central Excise Act, 1944. It was held that by virtue of Section 83 of the Finance Act 1994, Section 11B of the CE Act will be applicable to service tax matters. Therefore the CESTAT held that as regards claims for refund of service tax, the one year limitation period stipulated in Section 11B of the CE Act would apply.

Appellant, argued that the services rendered by it, *viz.*, 'Business Auxiliary Services' were provided to recipients outside India and therefore, they were exempt from service tax liability by the Export of Services Rules, 2005 read with Central Board of Excise & Customs (CBEC) Circular No.111/05/2009-ST dated 24th February 2009 and Government of India Notification 06/2010-ST dated 27th February 2010.

In view of the rival contentions, the Hon'ble Delhi high Court held that the question of applicability of Section 11B of the CE Act read with Section 83 of the Finance Act, 1994 to the refund application of the Appellant would arise only if the CESTAT came to the conclusion that the services rendered by the Appellant were in fact liable to service tax. If, on the other hand,

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the CESTAT finds that the services rendered by the Appellant were not amenable to service tax at all, the question of processing the refund application of the Appellant with reference to Section 11B of the Act would not arise. Consequently matter was remanded back to the Tribunal. - *[Alar Infrastructures Pvt Ltd v. CCE, Delhi, dated 14th October, 2015 (Delhi HC)]*

5. THE ACTIVITY OF LEASING OUT VACANT LAND WILL NOT BE COVERED UNDER THE CATEGORY OF RENTING OF IMMOVABLE PROPERTY AND HENCE NO SERVICE TAX LEVIABLE: CESTAT

In the instant case, it was alleged that appellant assessee had leased/rented out the Port land to private parties, for carrying out their business activities and this renting out of the property was falling under taxable category of "renting of immovable property" services.

The bench after considering the definition of Taxable Service as defined under Section 65(105)(zzzz) observed that renting of property is taxable service from 1/6/2007. However, as per Exclusion clause (b) leasing out of vacant land is not taxable. The said exclusion does not envisage any restriction as to it is to be put for non-commercial use.

Hon'ble Tribunal held that the appellant assessee having leased out the vacant land and the water front, is covered under the exclusion provided in the definition. - *[CCE & CST, Goa v. Mormugao Port Trust, dated 30th September, 2015 (CESTAT, Mumbai)]*

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INTELLECTUAL PROPERTY RIGHTS

1. DEPRECIATION COULD BE CLAIMED UNDER SECTION 32 READ WITH SECTION 43(3) OF THE INCOME TAX ACT ON THE ACQUISITION OF TRADEMARKS, COPYRIGHT AND TECHNICAL KNOW-HOW, AS THEY CAN BE TREATED AS "PLANT AND MACHINERY": SC

The issue involved in this case was whether the acquisition of trademarks, copyright and technical know-how can be treated as "plant and machinery" so that depreciation/amortization may be claimed on them under Section 32 of the Income Tax Act, 1961 (Act).

Apex Court held that there can be no doubt that for the purposes of a large business, control over intellectual property rights such as brand name, trademark etc. are absolutely necessary. Moreover, the acquisition of such rights and know-how is acquisition of a capital nature, more particularly in the case of the Assessee. Therefore, it cannot be doubted that so far as the Assessee is concerned, the trademarks, copyrights and know-how acquired by it would come within the definition of 'plant' being commercially necessary and essential as understood by those dealing with direct taxes. Therefore, the Assessee should be entitled to claim benefit under section 32 read with section 43(3) of the Act. - *[M/s. Mangalore Ganesh Beedi Works v. CIT, Mysore & Anr., dated 15th October, 2015 (Supreme Court of India)]*

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CONSUMER

1. NCDRC ORDERS SLEW OF MEASURES TO IMPROVE CENTRAL GOVERNMENT HEALTH SCHEME

On a complaint filed by a certain Mr. PB Bhandari, who was a beneficiary of Central Government Health Scheme (CGHS), the National Consumer Disputes Redressal Commission (NCDRC) has passed slew of directions. that the Directions include: CGHS must ensure that officer(s) designated by hospital, are available at the reception counter of every empanelled hospital/diagnostic centre, to assist the CGHS card holder/ attendant with the necessary information pertaining to his admission, treatment, charges payable and on other allied issues.

NCDRC has also asked the authorities to provide an all India toll free enquiry number from where a card holder can obtain relevant information about the nearest hospital, provision for ambulance, if required, the package rates and the name and mobile number of the designated officer. - *[Central Government Health Scheme v. P B Bhandari, 20th October, 2015, (NCDRC)]*

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ENVIRONMENT

1. NGT IS EMPOWERED TO ORDER GOVT FOR BANNING OLD VEHICLES: SC

Lending its support to the National Green Tribunal (NGT), the Supreme Court said the tribunal is empowered to issue directives to the Centre for banning vehicles more than 15 years old from plying on Delhi roads. - *[The Indian Express, dated 27th October, 2015]*

2. NGT CALLS FOR TIME-BOUND DISPOSAL OF MINING COMPLAINTS

Western Region Bench of NGT in Pune has asked the state government to ensure that complaints about violation of norms in the environment clearance granted to sand and other minor mineral mining projects are dealt with in a time-bound manner. This includes hearing of complaints and action, civil, criminal or both, against offenders. - *[The Times of India, dated 22nd October, 2015]*

3. NGT DISMISSES PETITION ADVOCATING FIRECRACKERS

NGT dismisses a petition on how bursting firecrackers is an essential part of Hindu religion and should not be regulated or banned in any manner. - *[The Hindu, dated 13th October, 2015]*

4. NGT ASKS GOVT. TO SET UP SPECIALISED CELL ON FOREST COVER

NGT has asked the government to set up a specialised cell in the Forest Department to undertake tree or plant translocation and suggested setting up of a Geo Information System (GIS) Cell in Rajasthan for monitoring of forest cover alongside roads. - *[The Hindu, dated 13th October, 2015]*

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