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## RBI/FEMA

### 1) **RBI ISSUES GUIDELINES ON LOAN SYSTEM FOR DELIVERY OF BANK CREDIT**

Taking into account the views of the stakeholders, the RBI has issued final guidelines wherein various provisions were notified related to minimum level of loan component and effective date, sharing of working capital finance, amount and tenor of the loan, repayment of loan component and risk weights for undrawn portion of cash credit limits. – *[DBR.BP.BC.No.12/21.04.048/2018-19, dated 5th December, 2018]*

### 2) **AMENDMENT TO DEENDAYAL ANTYODAYA YOJANA- NATIONAL URBAN LIVELIHOODS MISSION (DAY-NULM)**

The RBI has periodically issued instructions to banks with regard to operationalisation of the Government of India's National Urban Livelihoods Mission (DAY-NULM). The Ministry of Housing & Urban Affairs,

Government of India has amended the operational guidelines of Self-Employment Programme (SEP) under DAY-NULM. The revised Master Circular is now being issued by incorporating amendments as effected by the Ministry of Housing & Urban Affairs. – *[FIDD.GSSD.CO.BC.No.11/09.16.03/2018-19, dated 6th December, 2018]*

### 3) **OPERATIONAL GUIDELINES FOR 7.75% SAVINGS (TAXABLE) BONDS, 2018 SCHEME**

The RBI has issued the present Circular notifying the Operational Guidelines with regard to the 7.75% Savings (Taxable) Bonds, 2018 scheme. – *[IDMD.CDD.No.1637/13.01.299/2018-19, dated 24th December, 2018]*

### 4) **FILING OF SECURITY INTEREST RELATING TO IMMOVABLE (OTHER THAN EQUITABLE MORTGAGE), MOVABLE AND INTANGIBLE ASSETS IN CERSAI**

Banks/FIs are advised to complete filing the charges pertaining to subsisting transactions by March 31, 2019. Banks/FIs are also advised to file the current charges relating to all transactions with CERSAI on an ongoing basis. – *[DBR.Leg.No.BC.15/09.08.020/2018-19, dated 27th December, 2018]*

### 5) **EXTENSION OF LIQUIDITY COVERAGE RATIO (LCR), FALLCR FACILITIES TO NBFCS AND HFCS**

The banks have been permitted to reckon government securities as Level 1 HQLA under FALLCR within the mandatory SLR requirement upto 0.5 per cent of the bank's NDTL in respect

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of their incremental lending to NBFCs and HFCs after October 19, 2018. This facility was available up to December 31, 2018. Further, the single borrower limit for NBFCs (not financing infrastructure) has been increased from 10 per cent to 15 per cent of capital funds till December 31, 2018.

In order to further facilitate banks to lend to NBFCs and HFCs, RBI has decided to extend the aforesaid facilities upto March 31, 2019. – **[DBR.BP.BC.No.17/21.04.098/2018-19, dated 28th December, 2018]**

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## FOREIGN TRADE

### 1) **PROCEDURE FOR RE-EXPORT/RETURN OF IMPORTED SCOMET ITEMS.**

Paragraph 2.79 E has been inserted in the Handbook of Procedures of FTP 2015- 2020 to lay down the procedure for re-export/return of imported SCOMET item(s) due to reasons of obsolescence of technology of imported item(s); cancellation of order by the Indian buyer/end user; dead on arrival, etc. – **[ Public Notice No. 59/2015-20, 12<sup>th</sup> December, 2018 (DGFT)]**

### 2) **EXTENSION OF VALIDITY PERIOD OF ADVANCE AUTHORISATION**

Facility of second revalidation of Advance Authorisations for six months has been provided for making imports proportionate to export obligation already fulfilled. Thus, Regional Authority may consider a request of original Authorisation holder and grant one revalidation for six months from expiry date. Request(s) for

revalidation of Authorisation shall be filed online in ANF 4D. Regional Authority may further consider a request of original Authorisation holder and grant second revalidation for six months from expiry date of the first revalidation for making imports proportionate to export obligation already fulfilled. Request(s) for revalidation of Authorisation shall be filed online in ANF 4D. – **[Public Notice No.63/(2015-2020)]**

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## CORPORATE

### 1) **DIPP RELEASES DRAFT PATENT (AMENDMENT) RULES, 2018**

DIPP has released draft Patents (Amendment) Rules, 2018 dated December 04, 2018. The draft Rules aim to expand the categories of applicants who can avail the expedited examination procedure including those who opted for Patent Prosecution Highway with which Indian Patent Office (IPO) has signed mutual agreements. The Rules also seek to increase filing of Patent Co-operation Treaty (PCT) application by the Indian industry by removing the transmittal fees which an Indian PCT applicant was required to pay to the IPO. The highlights of the draft rules are as follows:

Two provisos are added after sub-rule (2) of Rule 18 (Appropriate office in relation to international applications) which state that the patent agents will be required to file all documents, including scanned copies of documents, only by electronic transmission at the time of filing an international application under the Patent Co-operation Treaty (PCT). Further, the original documents if required shall be submitted within a period of 15 days.

Clause (b) of sub-rule (1) of Rule 24C (Expedited examination of applications) is substituted. Accordingly, an applicant may file a request for expedited examination – (a) if the applicant is a startup; or (b) a small entity as defined in Rule 2(fa) or (c) in case of natural persons, the applicant or at least one of the applicants is a female or (d) applicant is a government undertaking in accordance with Section 2(1)(h) of the Patents Act, 1970 in case of an Indian applicant, or is a similar entity in case of a foreign applicant or (e) that the applicant is eligible under an arrangement for processing an international application pursuant to an agreement between Indian Patent Office with another participating patent office.

There will be no transmittal fee for international applications filed through e-PCT and also no fee for preparation of certified copy of priority documents and e-transmission.

The applications will be decided by a Bench comprising two members. If the Bench differs in opinion on any issue, the Controller will nominate a third member to the Bench and a majority decision will be treated as final. – *[Draft Patents (Amendment) Rules, 2018 dated December 04, 2018]*

## 2) **DIPP ISSUES PRESS NOTE 2 (2018 SERIES) REVIEWING FDI POLICY FOR E-COMMERCE**

DIPP has reviewed the FDI policy on e-commerce and have made to Other Conditions in Para 5.2.15.2 (E-commerce activities) of the Consolidated FDI Policy Circular 2017. Accordingly, any entity related to e-commerce platforms is barred from selling on that site. A limit is imposed on how much one vendor can sell on a particular portal and also e-commerce platforms are prohibited from giving any preferential treatment to any supplier. These

changes will take effect from **February 01, 2019** and are as follows:

Inventory of a vendor would be deemed to be controlled by e-commerce marketplace entity if more than 25% of purchases of such vendor are from the marketplace entity or its group companies.

An entity having equity participation by e-commerce marketplace entity or its group companies or having control on its inventory by e-commerce marketplace entity or its group companies, shall not be permitted to sell its products on the platform run by such marketplace entity.

The e-commerce entities providing marketplace could not directly or indirectly influence the sale price of goods or services and were required to maintain level playing field. It has now been decided that services shall be provided by e-commerce marketplace entity or other entities in which e-commerce marketplace entity has direct or indirect equity participation or common control, to vendors on the platform at arm's length and in a fair and non-discriminatory manner.

The e-commerce marketplace entity shall not mandate any seller to sell any product exclusively on its platform only.

Moreover, e-commerce marketplace entity shall furnish a certificate along with a report of statutory auditor to RBI, confirming compliance of above guidelines, by 30th of September of every year for the preceding financial year. – *[Press Note 2 (2018 Series), 26<sup>th</sup> December, 2018 (Ministry of Commerce and Industry)]*

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## SECURITIES

### 1) SEBI BOARD MEETING

**Creation of Segregated Portfolio by Mutual Funds (MFs)** – SEBI has allowed mutual funds to create segregated portfolios of debt and money market instruments, subject to various safeguards. This facility will be available to mutual funds based on credit events. Creating segregated portfolio may be optional for mutual funds, but approval of trustees is necessary for activating such a portfolio. It is a mechanism to separate distressed, illiquid and hard-to-value assets from other more liquid assets in a portfolio. It prevents the distressed assets from damaging the returns generated from more liquid and better-performing assets. The Board has also noted the proposal to review the valuation norms applicable to mutual fund schemes investing in debt and money market instruments.

**Review of framework for Institutional Trading Platform (ITP)** – With regard to listing of start-ups, it has approved the proposals for amendments to the Regulations pertaining to Institutional Trading Platform (ITP) in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations). The key proposals approved are: (a) Renaming the 'Institutional Trading Platform' created for such listings as 'Innovators Growth Platform' (IGP); (b) To be eligible for listing on the IGP, the issuer shall be a company which is intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or nano-technology to provide products, services or business platforms with substantial value; (c) 25% of its pre-issue capital should be held for at least 2 years by qualified institutional buyers or family trusts with over ₹500 crore net worth or a Category III foreign portfolio investor (FPI) or a pooled investment fund with minimum assets of \$150 million or an

accredited investor.; (d) Reduce the minimum trading lot size from Rs. 2 lakh from the existing Rs. 10 lakh the minimum number of allottees will be revised to 50 from the existing 200; (e) The existing requirement of cap on holding not more than 25% of the post issue capital by any person individually or collectively with persons acting in concert to be deleted. Also, there will not be any requirement of minimum reservation of allocation to specific category of investors; and (f) Minimum net offer to public should be in compliance with Minimum Public Shareholding (MPS) norms and minimum offer size to be INR 10 crores.

**Amendments to ICDR Regulations** - Amend the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, to provide that any increase or decrease in estimated issue size by more than 20% shall require fresh filing of the offer document with the Board. At present, such requirement is for both fresh issues and offer for sale. In case of an Offer For Sale (excluding fresh issue component), the Board has approved that fresh filing of offer document with the board will be required, when there is a change in either the number of shares offered for sale or the estimated issue size, by more than 50%

**Amendments to Takeover Regulations:** Amend the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, to exempt deposit taking Housing Finance Companies (HFCs) or HFCs with asset size of Rs.500 Cr or more, registered with National Housing Bank and systemically important NBFCs from disclosure of increase or decrease in shareholding due to encumbrance or release of the encumbrance of shares. A similar exemption is already available to scheduled commercial banks and public financial institutions.

**Clubbing of investment limits for FPIs** -SEBI in its Press Release dated September 21, 2018



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had, *inter-alia*, stated that a Circular on the issue of clubbing of investment limit of FPIs will be issued separately. After considering the recommendations of SEBI working group under the Chairmanship of Shri Harun R. Khan and comments received from public, SEBI Board has decided that the clubbing of investment limit for FPIs should not be done on the basis of same set of beneficial owners as per Prevention of Money-laundering (Maintenance of Records) Rules, 2005. It has decided to allow clubbing of investment limit for FPIs on the basis of common ownership of more than 50% or common control. However, in the case of appropriately regulated public retail funds, investment limits will not be clubbed on the basis of common control.

### **Expanding the Offer for Sale (OFS)**

**Mechanism** - The SEBI board has also approved a proposal to expand the offer-for-sale (OFS) mechanism to cover more listed companies wherein shareholders may want to sell their stake. The OFS mechanism will be available for companies with a market-cap of more than ₹1,000 crore. The threshold of market capitalisation will be computed as the average of daily reading for six months prior to the month in which the offer opens. If a seller fails to get enough demand from non-retail investors at or above the floor price, there will be an option to cancel the offer, even after bidding on the same day.

### **Role of Custodians in Commodity Derivatives Market**

- The Board has also allowed custodial services in goods underlying commodity derivative contracts in order to enable participation of institutional investors in commodity derivatives market.

### **Uniform Valuation Methodology for Pricing of Corporate Bonds**

- earlier proposed exercise for determining a uniform bond valuation methodology to be followed by all regulated

entities across the financial sector will not be pursued. The exercise of bringing uniformity in the valuation process for corporate bonds for all regulated entities across the financial sector will be undertaken by the Department of Economic Affairs, MoF. SEBI to prescribe guidelines for pricing of corporate bonds to be followed uniformly across all the mutual funds and to evolve a supervisory and regulatory framework for pricing agencies, which would provide services related to pricing of corporate bonds to Mutual Funds. *-[PR No.51/2018, 12th December, 2018, (SEBI)]*

## **2) SEBI EASES RULES ON CLUBBING OF FPI INVESTMENTS**

On April 10, 2018, SEBI issued two Circulars regarding Know Your Client (KYC) requirements for Foreign Portfolio Investors (FPIs) and providing Clarification on clubbing of investment limits of foreign Government/ foreign Government related entities. Pursuant to the decision taken in its Board meeting on December 12, 2018 that Beneficial ownership criteria in Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (PMLA Rules) should be made applicable for the purpose of KYC only and not for clubbing of investments of FPIs, SEBI has clarified that:

Clubbing of investment limit for FPIs will be on the basis of common ownership of more than 50% or based on common control. However, clubbing of investment limit of FPIs having common control shall not be done in case of (a) FPIs which are appropriately regulated public retail funds or (b) FPIs which are public retail funds majority owned by appropriately regulated public retail funds on look through basis or (c) FPIs which are public retail funds and investment managers (IMs) of such FPIs are appropriately regulated.

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In case, two or more FPIs including foreign Governments, their related entities are having direct or indirect common ownership of more than 50% or control, all such FPIs will be treated as forming part of an investor group and the investment limits of all such entities shall be clubbed at the investment limit as applicable to a single foreign portfolio investor.

Where Government of India enters into agreements or treaties with other sovereign Governments and where such agreements or treaties specifically recognize certain entities to be distinct and separate, SEBI may, during the validity of such agreements or treaties, recognize them as such.

The investment by foreign Government agencies shall be clubbed with the investment by the foreign Government, its related entities for the purpose of calculation of 10% limit for FPI investments in a single company, if they form part of an investor group. However, the investment by foreign Government, its related entities from provinces/ states of countries with federal structure shall not be clubbed if the said foreign entities have different ownership and control.

In respect of any breach of the investment limit, FPI in breach shall have to divest its holding within 5 trading days from the date of settlement of the trades to bring its shareholding below 10% of the paid-up capital of the company, or, the said investments shall be treated as Foreign Direct Investment from the date of breach.

Accordingly, the directions contained in SEBI Circular dated April 10, 2018 regarding KYC requirements for FPIs are superseded while the SEBI Circular dated April 10, 2018 providing Clarification on clubbing of investment limits of foreign Government/ foreign Government related entities, is partially modified –

*[SEBI/HO/IMD/FPIC/CIR/P/2018/150,  
13<sup>th</sup> December, 2018 (SEBI)]*

### 3) **SEBI LAYS DOWN RISK MANAGEMENT FRAMEWORK FOR EQUITY DERIVATIVES**

Pursuant to recommendation by SEBI's Risk Management Review Committee, SEBI has issued a risk management framework regarding margin system for the equity derivatives segment. Accordingly:

To bring Margin Period of Risk (MPOR) in greater conformity with the principles for financial market infrastructures, SEBI has increased the margin period of risk to two days from one day at present.

The payment of mark to market margin (MTM) would mandatorily be made by all the members on T+0 basis -- before start of trading on the next day. Currently, stock exchanges and clearing corporations offer a choice to the trading members to opt for payment of MTM either before the start of trading on the next day (T+0) or on the next day (T+1) with scaled up margins to cover the potential for losses over the time elapsed in the collection of MTM.

Based on recommendation made by RMRC and in consultation with the Clearing Corporations, SEBI has decided that Exchanges/Clearing Corporations shall estimate the appropriate MPOR, subject to a minimum of 2 days, for each equity derivative product based on liquidity therein and scale up the initial margins and exposure margins accordingly. For initial margins, the revised MPOR shall be given effect by way of scaling up the Price Scan Range (PSR) used for computing the Worst Scenario Loss.

PSR for computation of initial margins across index options and index futures contracts as three

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standard deviations ( $3\sigma$ ) or 5% of the underlying value, whichever is higher. The Short Option Minimum Charge (SOMC) for index option contracts also stands revised to 5%. This Circular shall come into effect from January 21, 2019. –[**SEBI/HO/MRD/DRMNP/CIR/P/2018/15 5, 17<sup>th</sup> December, 2018 (SEBI)**]

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## COMPETITION

### 1) CASE OF ABUSE OF DOMINANCE AGAINST COAL INDIA LIMITED

The present information was filed by Hindustan Zinc Limited (‘the Informant’) under Section 19(1)(a) of the Competition Act, 2002 (‘the Act’) against Western Coalfields Limited (OP-1/ WCL) and Coal India Limited (OP-2/ CIL) (collectively, ‘OPs’) alleging contravention of the provisions of Section 4 of the Act. The Informant, for operation of its captive power plants, had entered into three Fuel Supply Agreements (FSAs) with OP-1 all dated 01.08.2017. The Informant alleged that OP-1 has abused its dominant position by imposing unilateral and unfair conditions in the FSAs and acted in a discriminatory manner during supply of coal to the Informant, which constitute illegal purchase/ sale conditions under Section 4(2)(a) of the Act. The FSAs as well as the subsequent conduct of OP-1 is unilateral, oppressive and unfair, thereby enabling OP-1 to abuse its dominance. The Informant has impugned various clauses of the FSAs and conduct of the OPs arising therefrom, which are alleged to be in contravention of the provisions of Section 4(2)(a) of the Act.

On the issue of whether the Ops abused their dominant position, the CCI observed that the Informant requires supply of non-coking coal to operate its captive thermal power plants for carrying out its production activities i.e., production of zinc. Hence, based on the

delineation of relevant market in earlier coal cases i.e., Case Nos. 03, 11 & 59 of 2012 and more particularly Case No. 08 of 2014 where the consumer of non-coking coal was a soda ash manufacturer who required coal for its captive power plant, the Commission was of the view that the relevant market in the instant case would be ***‘production and sale of non-coking coal to thermal power producers including captive power plants in India’***. In the aforesaid relevant market, the Commission in the previous coal cases has found CIL and its subsidiaries to be in a dominant position. Hence, it is not necessary to dilate any further on this aspect particularly in the light of the statutory architecture governing mining, production and supply of non-coking coal in India.

On a careful perusal of the information and the averments/ allegations made, the Commission noted that in the previous coal cases [Case Nos. 03, 11 & 59 of 2012 decided on 24.03.2017; Case Nos. 05, 07, 37 & 44 of 2013 decided on 21.04.2017 and Case No. 08 of 2014 decided on 21.04.2017], the issues highlighted by the Informant (sampling procedure, grade slippage/ mis-declaration of grades, etc.) have been substantially addressed by issuing appropriate directions to CIL and its subsidiaries. As such, no further or other orders are required to be passed in this information and the same was disposed of in light thereof.

With regards to the allegation regarding Lock-in period as provided in clause 17 in the FSAs, the Commission noted that on a reading of the provisions, it is apparent that clause 17.1 of the FSAs found that that there was no prohibition in the said provision and the purchaser was entitled to terminate the agreement without being bound by the Lock-in period if such termination is occasioned due to the default at the seller’s end.



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The issues pertaining to adjustment of extra royalty charged by OP-1 are in the realm of revenue besides being contractual in nature, and hence, do not raise any competition issue.

CCI also pointed out that previously, the Commission had disposed of an Information (Case No. 11 of 2017 decided on 16.03.2018) against CIL and its subsidiaries where similar allegations have been made. The CCI observed that the orders issued by the Commission are *in rem* and not *in personam*, as such once an order is issued by the Commission to address market failure, the Commission need not order investigations based on successive Informations which may be brought before it by different parties agitating the same issues. To order investigations upon such repeated Informations would strain the limited resources of the Commission as well as the DG, without achieving any tangible public good. Thus, the Commission was of the opinion that no further/other order is required to be passed in respect of present Information and the same stands disposed of in terms of the directions issued by the Commission in the previous cases decided against CIL and its subsidiaries. **-[Hindustan Zinc Limited v. Western Coalfields Limited, Case No. 46 of 2018, 3<sup>rd</sup> December, 2018 (CCI)]**

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## INDIRECT TAXES

### a. CUSTOMS & CENTRAL EXCISE

#### 1) CLARIFICATION WITH RESPECT TO AMENDMENTS TO CUSTOMS AND CENTRAL EXCISE NOTIFICATIONS

### FOR EXPORT ORIENTED UNITS (EOUS)

The CBIC has amended Notifications related to EOU/EHTP/STP/BTP schemes in order to align them with the present FTP, 2015-2020 as well as to remove redundancies that had crept in over the time on account of changes/supersession of certain other notifications mentioned therein and legal developments such as the introduction of GST and exempting the EOUs from the application of the Customs warehousing provisions. – **[Circular No. 50/2018-Customs, dated 6th December, 2018]**

Following notifications are to be noted in this regard-

- Notification No. 52/2003-Customs, dated 31.03.2003 amended - **[Notification No. 79/2018-Customs, dated 5th December, 2018]**
- Notification No. 22/2003-Central Excise, dated 31.03.2003 amended – **[Notification No. 23/2018–Central Excise, dated 5th December, 2018]**
- Notification No. 23/2003-Central Excise, dated 31.03.2003 amended – **[Notification No. 23/2018–Central Excise, dated 5th December, 2018]**
- Notification No. 24/2003-Central Excise, dated 31.03.2003 amended – **[Notification No. 23/2018–Central Excise, dated 5th December, 2018]**
- Revised B-17 bond – **[Notification No. 1/2018–Central Excise (N.T.), dated 5th December, 2018]**



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## 2) **POSTPONEMENT OF IMPLEMENTATION OF INCREASED CUSTOMS DUTY ON SPECIFIED IMPORTS ORIGINATING IN USA**

The CBIC has further postponed the implementation of increased customs duty on specified imports originating in USA from 17th December, 2018 to 31st January, 2019. – *[Notification No. 80/2018-Customs, dated 15th December, 2018]*

## 3) **BCD AND IGST EXEMPTED FOR IMPORTS BY NTRO**

The CBIC has partially amended the Notification No. 37/2017-Customs dated 30.06.2017 in order to exempt BCD and IGST for imports by NTRO. – *[Notification No. 81/2018-Customs, dated 17th December, 2018]*

## 4) **DEEPER TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS WHEN IMPORTED FROM ASEAN**

The CBIC has amended Notification No. 46/2011-Customs dated 01.06.2011 so as to provide deeper tariff concessions in respect of specified goods when imported from ASEAN under the India-ASEAN Free Trade Agreement w.e.f. 01.01.2019. – *[Notification No.82/2018 – Customs, dated 31st December, 2018]*

## 5) **DEEPER TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS IMPORTED FROM KOREA RP**

The CBIC has amended Notification No. 152/2009-Customs dated 31.12.2009 so as to provide deeper tariff concessions in respect of specified goods imported from Korea RP under

the India-Korea Comprehensive Economic Partnership Agreement (CEPA) w.e.f. 01.01.2019. – *[Notification No.83/2018 – Customs, dated 31st December, 2018]*

## 6) **DEEPER TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS IMPORTED FROM MALAYSIA**

The CBIC has amended Notification No. 53/2011-Customs dated 01st July, 2011, so as to provide deeper tariff concessions in respect of specified goods imported from Malaysia under the India-Malaysia Comprehensive Economic Cooperation Agreement (IMCECA) w.e.f. 01.01.2019. – *[Notification No.84/2018 – Customs, dated 31st December, 2018]*

## 7) **DEEPER TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS IMPORTED FROM JAPAN**

The CBIC has amended Notification No. 69/2011-Customs, dated 29th July, 2011 so as to provide a deepen the concessional rate of basic customs duty in respect of tariff item 8708 40 00 [gear box and parts thereof, of specified motor vehicles], w.e.f. 1st of January, 2019, when imported under the India-Japan Comprehensive Economic Partnership Agreement (IJCEPA). – *[Notification No.85/2018 – Customs, dated 31st December, 2018]*

## 8) **TEMPORARY EXEMPTION FOR PRIVATE ROAD VEHICLES**

Notification No. 296/76 dated 02.08.1976 amended so as to exempt temporary importation of private road vehicles from IGST and compensation cess. – *[Notification No.*

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*86/2018 – Customs, dated 31th December, 2018]*

## 9) PORT MEADOW ALLOWED TO BE USED FOR UNLOADING OF IMPORTED GOODS AND LOADING OF EXPORT GOODS

Notification No. 62/94-Customs (N.T.) dated 21.11.1994 amended so as to allow Union Territory of Andaman & Nicobar Islands to use Port Meadow for unloading of imported goods and loading of export goods or any class of goods. – *[Notification No. 97/2018- Customs (N.T.), dated 07th December, 2018]*

## 10) ADD ON UNCOATED COPIER PAPER

Definitive anti-dumping duty levied on the imports of "Uncoated Copier Paper" originating in or exported from Indonesia, Thailand and Singapore for a period of three years. – *[Notification No. 56/2018-Customs (ADD), dated 4th December, 2018]*

## 11) ADD ON ZEOLITE 4A (DETERGENT GRADE)

Anti-dumping duty imposed on imports of "Zeolite 4A (detergent grade)" originating in or exported from China PR for a period of five years. – *[Notification No. 57/2018-Customs (ADD), dated 13th December, 2018]*

## 12) PROCEDURE FOR DISPOSAL OF UN-CLAIMED/UN-CLEARED CARGO

The CBIC *vide* present Circular has prescribed the procedure with regard to expeditious disposal of un-claimed/un-cleared cargo lying with custodians, whether in the private or public

sector, under Section 48 of the Customs Act, 1962. – *[Circular No. 49 /2018-Customs, dated 3rd December, 2018]*

## 13) DEVELOPMENT OF WEB-BASED APPLICATION FOR AEO-T1

The CBIC *vide* present Circular has provided information regarding AEO website namely [aeoindia.gov.in](http://aeoindia.gov.in) which has been developed under the aegis of DIC for online filing and processing of AEO T1 applications. This AEO Website was launched by the Chairman; CBIC on 30.11.2018 and subsequently the access to the website was made available to both the applicant, for filing of AEO T1 application (annexures), and Customs officials, for processing and delivery of digitized AEO Certificate online of newly filed applications. – *[Circular No. 51 /2018-Customs, dated 7th December, 2018]*

## 14) REVISION OF ALL INDUSTRY RATES (AIRS) OF DUTY DRAWBACK

The CBIC has announced the revised All Industry Rates (AIRs) of Duty Drawback, which will come into force on 19th December, 2018. Salient features of the revised AIRs are as follows:-

i. As announced in the last Drawback Schedule w.e.f. 1st October, 2017, the revised AIRs of Duty Drawback neutralize incidence of duties of Customs on inputs used and remnant Central Excise duty on specified petroleum products used in manufacture of export goods. Accordingly each tariff item in the Schedule annexed with above mentioned Notification has been provided with one AIR specified under column (4) with caps under column (5) in the Schedule. For claiming these AIRs, the relevant tariff item have to be suffixed with suffix 'B' e.g.

for export of goods covered under tariff item (IT) 640609, the drawback serial no. should be declared as 640609B;

ii. The Notification also specifies the alternative AIRs on garments exports made against the Special Advance Authorization (para 4.04A of Foreign Trade Policy 2015-20) in discharge of export obligations in terms of Notification No. 45/2016-Customs dated 13.08.2016. For claiming these alternative AIRs, the relevant tariff item has to be suffixed with suffix 'D' instead of the usual suffix 'B'.

iii. The AIR of Duty Drawback for items of textiles (Chapter 54 to 63), readymade garments (Chapter 61-62) and made-ups (Chapter 63) have been increased on account of various factors such as change in duty structure, change in prices (CIF) of imported inputs and FOB of export goods, change in import intensity of inputs, etc.

iv. Rationalization of rates for some readymade garments (Chapters 61 & 62) have been done on account of various reasons *viz.* decrease in C. Ex. Duty rate on diesel, change in prices (CIF) of imported inputs and FOB of export goods and change in import intensity of inputs etc.

v. New tariff items in Textiles and made-up (3 items) have been introduced in the Schedule.

vi. Appropriate caps have been provided wherever felt necessary to prescribe upper limit of Duty drawback. – **[Circular No. 52/2018-Customs, dated 12th December, 2018]**

## 15) **PROCEDURE TO BE FOLLOWED IN CASES OF MANUFACTURING OR OTHER OPERATIONS UNDERTAKEN IN BONDED WAREHOUSES UNDER SECTION 65 OF THE CUSTOMS ACT**

Circular 38/2018 was issued by the CBIC to streamline the operations under Section 65 of the

Customs Act, 1962, including the process of application, maintenance of records, manner of discharging duty liability of imported goods and resultant products etc. *vide* the Circular, it was clarified that operations under Section 65 should be undertaken in private bonded warehouses licensed under Section 58 of the Act.

In this connection, to enable a proper examination of the matter without sudden disruption to any activities that were permitted in the past under Section 65, CBIC has decided to allow operations under Section 65 to be continued in public bonded warehouses up to January 31, 2019, in respect of such operations and for such operators, who had been permitted such facility by jurisdictional authorities, as on the date of issue of Circular 38/2018-Customs dated October 18, 2018. – **[Circular No. 53/2018-Customs, dated 28th December, 2018]**

### b. **GST**

#### 1) **IMPLEMENTATION OF RECOMMENDATIONS MADE DURING 31ST MEETING OF THE GST COUNCIL**

CBIC releases various Notifications/ Circulars/ Orders to give effect to recommendations made during 31st Meeting of the GST Council as below:

- Extension of time period for completing migration procedure: Time period specified in Notification No. 31/2018-CT dated 06.08.2018 for availing the special procedure for completing migration of taxpayers who received provisional IDs but could not complete the migration process, has been extended to 31st January, 2019 & 28th February, 2019. – **[Notification No.**



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**67/2018 – Central Tax, dated 31st December, 2018]**

- Extension of time limit for furnishing various forms

i. Form GSTR-3B: Newly migrated taxpayers get extended time to file GSTR-3B for months of July, 2017 to February, 2019 till 31st March 2019 (earlier 31st Dec 2018); Procedure for Newly migrated taxpayers must be referred to in Notification No. 31/2018 dated 6th August, 2018 that gave time for some taxpayers to complete GST registration by 30th September, 2018 (now extended to 28th February 2018 *vide* Notification No. 67/2018), if they had applied by 31st December 2017 but could not complete submission of REG-26 to obtain GSTIN; Notification No. 21/2017 and 56/2017 notified the due dates of GSTR-3B for months July 2017 and August 2017 & from January 2018 to March 2018 respectively.

Similarly, Notification No. 35/2017 and 16/2018 notified the due dates of GSTR-3B for months from August 2017 to December 2017 and April 2018 to June 2018.

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Notification No. 34/2018 notified the due dates of GSTR-3B for months from July 2018 to March 2019. – **[Notification No. 68/2018 – Central Tax, dated 31st December, 2018 & Notification No. 69/2018 – Central Tax, dated 31st December, 2018 & Notification No. 70/2018 – Central Tax, dated 31st December, 2018]**

ii. Form GSTR – 1: Newly Migrated Taxpayers with turnover below or equal to Rs. 1.5 crores who opted but are yet

to file GSTR-1(Quarterly) for the quarters beginning from July 2017 to December 2018, get an extension till 31st March 2019. – **[Notification No. 71/2018 – Central Tax, dated 31st December, 2018]**

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Newly Migrated Taxpayers with turnover over Rs. 1.5 crores who are yet to file GSTR-1 (Monthly) for the months July 2017 to February 2019, also get an extension till 31st March 2019. – **[Notification No. 72/2018 – Central Tax, dated 31st December, 2018]**

iii. FORM ITC-04: Due date for furnishing FORM ITC-04 for the period from July, 2017 to December, 2018 extended till 31.03.2019. – **[Notification No. 78/2018 – Central Tax, dated 31st December, 2018]**

- Supplies made by Government Departments and PSUs to other Government Departments exempted from TDS: The CBIC has exempted the supplies made by Government Departments and PSUs to other Government Departments and vice-versa from TDS provisions with effect from 1st October 2018. – **[Notification No. 73/2018 – Central Tax, dated 31st December, 2018]**
- CGST Rules, 2017 amended: The CBEC has notified the CGST (14th Amendment) Rules, 2018, to effect amendments in CGST Rules 12(1)/ 45(3)/ 46/ 49/ 54/ 89/ 96/ 101/ 109A/ 138/ 142 and GST Forms (RFD-01, RFD-01 A, GSTR 9, GSTR 9A, GSTR-9C, GST APL-04). – **[Notification No. 74/2018 – Central Tax, dated 31st December, 2018]**
- Waiver of late fee on GSTR-1: The amount of late fees leviable on account of delayed

furnishing of FORM GSTR-1 for the period July, 2017 to September, 2018 has been fully waived off in specified cases. –

**[Notification No. 75/2018 – Central Tax, dated 31st December, 2018]**

- Reduction of late fee on FORM GSTR-3B and waiver in specified cases: The CBIC has reduced late fees to Rs. 50 per day of delay (Rs. 20 for NIL return) for those who filed the GSTR-3B beyond the due date stipulated for months July 2017 to September 2018 before 22nd December 2018. Further, the amount of late fees leviable on account of delayed furnishing of FORM GSTR-3B for the period July, 2017 to September, 2018 has been fully waived off in specified cases. – **[Notification No. 76/2018 – Central Tax, dated 31st December, 2018]**
- Waiver of late fee on GSTR-4: The amount of late fees leviable on account of delayed furnishing of FORM GSTR-4 for the period July, 2017 to September, 2018 has been fully waived off in specified cases. – **[Notification No. 77/2018 – Central Tax, dated 31st December, 2018]**
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 has been amended so as to change GST rates on goods w.e.f 01.01.2019. – **[Notification No.24/2018-Central Tax (Rate), dated 31st December, 2018]** Similar notifications under the IGST Act & the UGST Act. – **[Notification No. 25/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 24/2018- Union territory Tax (Rate), dated 31st December, 2018]**
- Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 has been amended so as to exempt GST on certain goods w.e.f 01.01.2019. – **[Notification No.25/2018-**

**Central Tax (Rate), dated 31st December, 2018]** Similar Notifications under the IGST Act & the UGST Act. – **[Notification No. 26/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 25/2018- Union territory Tax (Rate), dated 31st December, 2018]**

- Exemption of CGST on supply of gold by nominated agencies to registered persons. – **[Notification No.26/2018-Central Tax (Rate), dated 31st December, 2018]** Similar Notifications under the IGST Act & the UGST Act. – **[Notification No. 27/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 26/2018- Union territory Tax (Rate), dated 31st December, 2018]**
- Notification No. 11/2017- Central Tax (Rate) amended so as to notify CGST rates of various services w.e.f 01.01.2019. – **[Notification No.27/2018-Central Tax (Rate), dated 31st December, 2018]** Similar Notifications under the IGST Act & the UGST Act. – **[Notification No. 28/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 27/2018- Union territory Tax (Rate), dated 31st December, 2018]**
- Notification No. 12/2017- Central Tax (Rate) amended so as to exempt certain services from CGST w.e.f 01.01.2019. – **[Notification No. 28/2018-Central Tax (Rate), dated 31st December, 2018]** Similar Notifications under the IGST Act & the UGST Act. – **[Notification No. 29/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 28/2018- Union territory Tax (Rate), dated 31st December, 2018]**

- Notification No. 13/2017- Central Tax (Rate) has been amended so as to specify services to be taxed under Reverse Charge Mechanism (RCM) w.e.f 01.01.2019. – **[Notification No. 29/2018-Central Tax (Rate), dated 31st December, 2018]**

Similar Notifications under the IGST Act & the UGST Act. – **[Notification No. 30/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 29/2018- Union territory Tax (Rate), dated 31st December, 2018]**

- Reg. GST on Transport of goods in containers by rail by any person other than Indian Railways. – **[Notification No.30/2018-Central Tax (Rate), dated 31st December, 2018]**

Similar Notifications under the IGST Act & the UGST Act. – **[Notification No. 31/2018-Integrated Tax (Rate), dated 31st December, 2018 & Notification No. 30/2018- Union territory Tax (Rate), dated 31st December, 2018]**

- IGST Rules, 2017 have been amended so as to notify the rules for determination of place of supply in case of inter-State supply under Sections 10(2), 12(3), 12(7), 12(11) and 13(7) of the IGST Act, 2017. – **[Notification No. 04 /2018 – Integrated Tax, dated 31st December, 2018]**
- CBIC clarifies on 6 Important GST Related issues: The CBIC provides clarification on certain issues (sale by government departments to unregistered person; leviability of penalty under Section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under Section 142(2) of the CGST Act; applicability of Notification No. 50/2018-Central Tax; valuation methodology in case of TCS under Income Tax Act and definition of owner of

goods) related to GST – **[Circular No. 76/50/2018-GST, dated 31st December, 2018]**

- Denial of composition option by tax authorities and effective date thereof. – **[Circular No. 77/51/2018-GST, dated 31st December, 2018]**
- GST on Export Services through supplier of services located outside India. – **[Circular No. 78/52/2018-GST, dated 31st December, 2018]**
- CBIC clarifies on GST refund related issues: The CBIC provides clarification on certain refund issues physical submission of refund claims with jurisdictional proper officer; Calculation of refund amount for claims of refund of accumulated Input Tax Credit (ITC) on account of inverted duty structure; Disbursal of refund amounts after sanction; Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices; Issues related to refund of accumulated Input Tax Credit of Compensation Cess; Non-consideration of ITC of GST paid on invoices of earlier tax period availed in subsequent tax period; Misinterpretation of the meaning of the term “inputs”; Refund of accumulated ITC of input services and capital goods arising on account of inverted duty structure. – **[Circular No. 79/53/2018-GST, dated 31st December, 2018]**
- Clarification regarding GST rates & classification (goods) – **[Circular No. 80/54 /2018-GST, dated 31st December, 2018]**



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## 2) **GUIDELINES FOR PROCESSING OF APPLICATIONS FOR FINANCIAL ASSISTANCE UNDER THE CENTRAL SECTOR SCHEME NAMED 'SEVA BHOJ YOJNA' OF THE MINISTRY OF CULTURE**

The CBIC has issued the guidelines for processing of applications for financial assistance under the Central Sector Scheme named 'Seva Bhoj Yojna' of the Ministry of Culture. – *[Circular No. 75/49/2018-GST, dated 27th December, 2018]*

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## INTELLECTUAL PROPERTY RIGHTS

### 1) **A REGISTERED PROPRIETOR OF A TRADEMARK WOULD ORDINARILY BE ENTITLED TO FINDING OF THE CIVIL COURT IN ITS FAVOUR, THAT THE TRADEMARK REGISTERED IN ITS NAME IS PRIMA-FACIE VALID – BOMBAY HC**

The Bombay HC relying on an earlier decision observed that while the registered proprietor of a trade mark would ordinarily be entitled to finding of the Civil Court in its favour, that the trademark registered in its name is *prima-facie* valid, the jurisdiction of the Court is not barred for considering the plea of the Defendant at the interlocutory stage, that the registration in the Plaintiff's favour is so fraudulent or so apparently invalid that the Court should not grant an injunction in favour of the Plaintiff. It has further been held that a very heavy burden lies on the Defendant to rebut the strong presumption in

favour of the Plaintiff at the interlocutory stage. – *[Eurobond Industries Private Limited v. Euro Panel Products Pvt. Limited & Ors., dated 4th December, 2018 (Bombay HC)]*

### 2) **MARKS 'ROZAVEL' & 'ROSVEL' FOUND TO BE ALMOST IDENTICAL BY THE MADRAS HC IN PHARMACEUTICAL BUSINESS**

The Madras HC found that the marks 'ROZAVEL' & 'ROSVEL' are almost identical and therefore passed permanent injunction, restraining the defendants, their manufacturers, distributors, stockists, servants, agents, wholesalers, retailers, legal representatives or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations infringing plaintiff's registered trademark ROZAVEL by use of almost identical trademark ROSVEL or any mark deceptively similar to plaintiff's registered trademark ROZAVEL or in any other manner whatsoever. – *[Sun Pharma Laboratories Limited v. Mnc Therapeutic Sciences Pvt Ltd, dated 20th December 2018 (Madras HC)]*

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## CONSUMER

### 1) **APEX COURT ON THE ARBITRABILITY OF CONSUMER DISPUTES**

The Supreme Court of India (Supreme Court), *vide* its judgment in M/s Emaar MGF Land Limited v. Aftab Singh (Review Petition (C) Nos. 2629-2630 of 2018 in Civil Appeal Nos 23512-

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23513 of 2017), has conclusively decided that if a dispute brought before the consumer forum (consumer dispute/s) arises from an agreement which has an arbitration clause, the consumer forum will be the appropriate forum for hearing the dispute. The decision was based on the premise that consumer disputes are of a public nature and consequently, the remedies under the Arbitration and Conciliation Act, 1996 (Arbitration Act) for the same are barred by implication. The Supreme Court placed reliance on various landmark judgments on the subject of “arbitrability”. It further demonstrated how the amendments made to Section 8(1) of the Arbitration Act *vide* the Arbitration and Conciliation (Amendment) Act, 2015 (2015 Amendment) did not bar the National Consumer Dispute Redressal Commission (NCDRC) from refusing to refer the dispute to arbitration. – [ *M/S. Emaar MGF Land Limited v. Aftab Singh (Review PETITION (C) Nos. 2629-2630 OF 2018)*, 10<sup>th</sup> December, 2018, (NCDRC)]

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## ENVIRONMENT

### 1) TWO BUILDERS GET NOTICE FOR DEFYING CONSTRUCTION BAN IN GURUGRAM

The Haryana State Pollution Control Board (HSPCB) has show-caused two prominent real estate developers — M3M India and Supertech — for allegedly defying a construction ban imposed across NCR by EPCA. HSPCB has also slapped a penalty of Rs 5.50 lakh on each of them for carrying out construction work at their project sites in Gurugram, besides flouting construction norms laid down by the MoEFCC.

– [ *The Times of India*, dated 28th December, 2018]

### 2) US EMBASSY GETS GREEN NOD FOR RS 200 CRORE RENOVATION PROJECT

The Centre has given green nod to the US Embassy, located in Delhi, for constructing a new office building, renovation of the Chancery and update support facilities at the existing land for estimated cost of Rs. 200 crore. The proposed project is expected to provide jobs for 150 people during the construction phase and 1,366 personnel during operation phase. – [ *The Times of India*, dated 25th December, 2018]

### 3) NGT SLAPS RS. 50 CR PENALTY ON KARNATAKA FOR NEGLECTING BENGALURU LAKES

The NGT imposed Rs. 50 crore penalty on Karnataka for allegedly neglecting two lakes -- Bellandur and Varthur -- in the city's southeast suburb, which shall be deposited with the Central Pollution Control Board (CPCB) for restoring the environment. – [ *The times of India*, dated 7th December, 2018]

### 4) AIR POLLUTION: NGT SLAPS RS. 25 CRORE FINE ON DELHI GOVT

The NGT asked the Delhi Government to deposit Rs. 25 crore with the Central Pollution Control Board (CPCB) for their failure to curb the problem of pollution in the city. – [ *The Times of India*, dated 3rd December, 2018]

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