MONTHLY NEWSLETTER

Lexport
Interpreting India for commerce

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RBI/FEMA

1) VOLUNTARY RETENTION ROUTE (VRR) FOR FOREIGN PORTFOLIO INVESTORS (FPIS) INVESTMENT IN DEBT

The RBI with a view to attract long-term and stable FPI investments into debt markets while providing operational flexibility to FPIs to manage their investments, had issued a discussion paper on 5 October, 2018 proposing a special channel called Voluntary Retention Route (VRR) for FPIs. Based on comments received from the public and representations made by various industry participants, the RBI *vide* present Circular has released finalized version of the VRR scheme, to boost foreign investment in Indian debt markets. Investment under the VRR scheme is open for allotment since March 11, 2019. The details are as under:

- The aggregate investment limit shall be Rs.40,000 crores for VRR-Govt and Rs.35,000 crores for VRR-Corp.;
- The minimum retention period shall be three years. During this period, FPIs shall maintain a minimum of 75% of the allocated amount in India.
- Investment limits shall be available on tap for investments and shall be allotted by Clearing Corporation of India Ltd. (CCIL) on 'first come first served' basis.
- The investment limits under the current tranche shall be kept open till the limits are exhausted or till April 30, 2019 whichever is earlier.
- FPIs desirous of investing may apply online to CCIL through their respective custodians.
- CCIL will separately notify the operational details of application and allotment. – [A.P. (DIR Series) Circular No. 21, dated 01st March, 2019]

Further, the RBI issued another circular on the hedging of the exchange rate risk by FPIs investing under VRR. – ***[A.P. (DIR Series) Circular No. 22, dated 01st March, 2019]***

2) INTEREST SUBVENTION SCHEME FOR SHORT TERM CROP LOANS DURING THE YEARS 2018-19 AND 2019-20

To provide short-term crop loans up to Rs. 3 lakh to farmers at an interest rate of 7 per cent, the RBI has decided to offer interest subvention of 2 per cent per annum to lending institutions. Under the Scheme, an additional 2 per cent interest subvention is provided to farmers repaying loans promptly. For such farmers, the effective rate of short-term crop loans works out to be 4 per cent per annum. – ***[FIDD.CO.FSD.BC.No.15/05.02.001/2018-19, dated 07th March, 2019]***

3) REVIEW OF WHITE LABEL ATMS (WLAS) GUIDELINES IN INDIA

On a review of operations of WLAs and representations received from stakeholders, as also

to enhance the viability of WLAs, RBI has decided to allow the WLA Operators to : -

- buy wholesale cash, above a threshold of 1 lakh pieces (and in multiples thereof) of any denomination, directly from the Reserve Bank (Issue Offices) and Currency Chests against full payment;
- source cash from any scheduled bank, including Cooperative Banks and Regional Rural Banks;
- offer bill payment and Interoperable Cash Deposit services, subject to technical feasibility and certification by National Payments Corporation of India (NPCI);
- display advertisements pertaining to non-financial products / services anywhere within the WLA premises, including the WLA screen, except the main signboard. It shall be ensured that the advertisements running on the screen disappear once the customer commences a transaction.

Further, banks may issue co-branded ATM cards in partnership with the authorised WLA Operators and may extend the benefit of 'on-us' transactions to their WLAs as well. It is further clarified that all guidelines, safeguards, standards and control measures applicable to banks relating to (a) currency handling, and (b) cyber-security framework for ATMs, shall also be applicable to the WLA Operators. – ***[DPSS.CO.OD.No.1916/06.07.011/2018-19, dated 7th March, 2019]***

4) REVISION OF TRADE CREDIT POLICY

The RBI has eased trade credit norms *vide* the present Circular. The cap on trade credits that Indian importers can raise through the automatic route from overseas suppliers, banks and other financial institutions has been increased. Large oil and gas refining and distribution, airline and shipping companies can raise up to $150 million or equivalent through the automatic route via trade credits. Other companies can raise up to $50 million or equivalent per import transaction. The earlier limit was $20 million for all the companies. An Indian importer or exporter of goods and services can avail such buyers' and suppliers' credit either in foreign currencies or rupees. Companies that import capital goods can raise funds through this facility up to three years. In case of non-capital goods, the period is capped at one year or less depending on the requirement. – ***[A.P. (DIR Series) Circular No. 23, dated 13th March, 2019]***

5) RESERVE BANK OF INDIA (PREVENTION OF MARKET ABUSE) DIRECTIONS, 2019 NOTIFIED

In order to prevent abuse in markets regulated by the Reserve Bank, the RBI has issued the Reserve Bank of India (Prevention of Market Abuse) Directions, 2019 to all persons dealing in securities, money market instruments, foreign exchange instruments, derivatives or other instruments of like nature as the Bank may specify from time to time. These Directions shall apply to transactions of all participants in markets for financial instruments but shall exclude transactions executed through the recognized stock exchanges under and in accordance with the regulations of the Securities and Exchange Board of India. These Directions shall not apply to the Bank and the Central Government in furtherance of monetary policy, fiscal policy or other public policy objectives. – ***[FMRD.FMSD.11/11.01.012/2018-19, dated 15th March, 2019]***

6) EXPORT AND IMPORT OF INDIAN CURRENCY FROM NEPAL AND BHUTAN

As per the extant guidelines, a person was allowed to take or send out of India to Nepal or Bhutan and bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India for any amount in denominations up to Rs. 100/-. Further, an individual may carry to Nepal or Bhutan, currency notes of Reserve Bank of India denominations above Rs. 100/-, i.e. currency notes of Rs. 500/- and/or Rs. 1000/- denominations, subject to a limit of Rs. 25,000/-.

It has now been decided that an individual travelling from India to Nepal or Bhutan may carry Reserve Bank of India currency notes in Mahatma Gandhi (New) Series of denominations Rs.200/- and/or Rs.500/- subject to a total limit of Rs.25,000/- Instructions regarding currency notes of Government of India and Reserve Bank of India for any amount in denominations up to Rs.100/- shall continue as hitherto. – ***[A.P. (DIR Series) Circular No. 24, dated 20th March, 2019]***

7) DEFERRAL OF IMPLEMENTATION OF INDIAN ACCOUNTING STANDARDS (IND AS)

The implementation of Ind AS has been deferred till further notice as the legislative amendments recommended by the Reserve Bank to the Banking Regulation Act, 1949 are under consideration of the Government of India. – ***[DBR.BP.BC.No.29/21.07.001/2018-19, dated 22nd March, 2019]***

8) NON-RESIDENT PARTICIPATION IN RUPEE INTEREST RATE DERIVATIVES MARKETS (RESERVE BANK) DIRECTIONS, 2019 NOTIFIED

In order to provide access to non-residents to the Rupee Interest Rate Derivative (IRD) market in India, the RBI has notified the Non-resident Participation in Rupee Interest Rate Derivatives Markets (Reserve Bank) Directions, 2019. These Directions are applicable to Rupee interest rate derivative transactions in India, undertaken on recognized stock exchanges, electronic trading platforms (ETP) and Over-the-Counter (OTC) markets. – ***[FMRD.DIRD.13/14.03.041/2018-19, dated 27th March, 2019]***

9) REVISION OF INVESTMENT LIMITS BY FOREIGN PORTFOLIO INVESTORS (FPI) IN GOVERNMENT SECURITIES MEDIUM TERM FRAMEWORK FOR 2019-20

The RBI has notified that the limit for FPI investment in Central Government securities (G-secs), State Development Loans (SDLs) and corporate bonds shall be 6%, 2%, and 9% of outstanding stocks of securities, respectively, in FY 2019-20.

The allocation of increase in G-sec limit over the two sub-categories – 'General' and 'Long-term' – has been set at 50:50 for the year 2019-20. The entire increase in limits for SDLs has been added to the 'General' sub-category of SDLs. – ***[A.P. (DIR Series) Circular No. 26, dated 27th March, 2019]***

10) **REGARDING PERMISSIONS FOR ESTABLISHMENT OF BRANCH OFFICE (BO) / LIAISON OFFICE (LO) / PROJECT OFFICE (PO) OR ANY OTHER PLACE OF BUSINESS IN INDIA BY FOREIGN ENTITIES**

The RBI *vide* present Circular has advised that for opening of a BO/LO/PO or any other place of business in India, where the principal business of the applicant falls in the Defence, Telecom, Private Security and Information and Broadcasting sector, no prior approval of the Reserve Bank of India shall be required, if Government approval or license/permission by the concerned Ministry/ Regulator has already been granted. Further, in the case of proposal for opening a PO relating to defence sector, no separate reference or approval of Government of India shall be required if the said non-resident applicant has been awarded a contract by/entered into an agreement with the Ministry of Defence or Service Headquarters or Defence Public Sector Undertakings. It is clarified that the term "permission" used in the Notification does not include general permission, if any, available under Foreign Direct Investment in the automatic route, in respect of the above four sectors. All other provisions of the BO/LO/PO policy shall remain unchanged. – ***[A.P. (DIR Series) Circular No. 27, dated 28th March, 2019]***

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FOREIGN TRADE

1) **NEW ONLINE FACILITY FOR OBTAINING IMPORT LICENSE FOR 'RESTRICTED' ITEMS FROM 18TH MARCH 2019**

Director General of Foreign Trade (DGFT) has notified revised pro-forma – ANF-2M, for submission of online application for obtaining import license for 'Restricted' items from March 18, 2019 onwards. ***–[Public Notice No.79/2015-20, 15th March, 2019 (DGFT)]***

2) **EXEMPTIONS UNDER ADVANCE AUTHORIZATION, EPCG SCHEME AND EOU SCHEME**

Exemptions from Integrated Tax and Compensation Cess under the Advance Authorizations, EPCG Scheme and under EOU Scheme is extended upto March 31, 2020. **–** ***[Notification No.57/2015-20, 20th March, 2019 (DGFT)]***

3) **TRANSPORT AND MARKETING ASSISTANCE (TMA) FOR SPECIFIED AGRICULTURE PRODUCTS**

Procedure and Aayat and Niryat Form to avail Transport and Marketing Assistance (TMA) for specified agriculture products has been notified. **–** ***[Public Notice No.82/2015-20, 29th March, 2019 (DGFT)]***

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CORPORATE

1) MCA NOTIFICATION REGARDING INITIATING CORPORATE INSOLVENCY RESOLUTION PROCESS

Pursuant to the powers conferred by S.7(1) of the Insolvency and Bankruptcy Code, 2016, MCA has notified that the following persons may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority, on behalf of the financial creditor: - (a) a guardian; (b) an executor or administrator of an estate of a financial creditor; (c) a trustee (including a debenture trustee); and (d) a person duly authorised by the Board of Directors of a Company. ***–[Ministry of Corporate Affairs, 1st March, 2019 (MCA)]***

2) IBBI ISSUES CHARTER OF RESPONSIBILITIES OF IPs AND COC

The Insolvency Professionals (IPs) and the Committee of Creditors (CoC) constitute key institutions of public faith under the Insolvency and Bankruptcy Code, 2016 (Code). The Code read with Regulations made thereunder has demarcated responsibilities of an IP and of the CoC in the corporate insolvency resolution process (CIRP) and also assigned certain responsibilities to them jointly. The emerging jurisprudence is bringing further clarity about their roles in a CIRP. Hence, IBBI has now released a charter listing the responsibilities of IPs and CoC. ***–[Insolvency and Bankruptcy Board of India, 1st March, 2019 (IBBI)]***

3) MOF FURTHER NOTIFIES RE EASING OF PROCESS OF TAX EXEMPTION FOR START-UPS

In supersession of the Ministry of Finance (CBDT) Notification dated May 24, 2018, MoF has notified that the provisions of clause (viib) of sub-section (2) of Section 56 (Income from Other Sources) of the Income-Tax Act, 1961 shall not apply to consideration received by a company for issue of shares that exceed the face value of such shares, if the said consideration has been received from a person, being a resident, by a company which fulfils the conditions specified in paragraph 4 of the DPIIT Notification dated the February 19, 2019 and files the declaration referred to in paragraph 5 of the said DPIIT Notification. ***–[Ministry of Finance (CBDT) Notification, 5th March, 2019]***

4) COMPANIES (INCORPORATION) SECOND AMENDMENT RULES, 2019

MCA has amended the Companies (Incorporation) Rules, 2014 as follows: (a) In Rule 30(5)(a) [Advertising in newspapers regarding shifting of registered office from one state or union territory to another state] - for the words "with the widest circulation", the words "with wide circulation" shall be substituted. (b) Second proviso to Rule 38(2) has been amended. It provides that companies incorporated w.e.f. 26th January 2018 with a nominal capital of less than or equal to Rs. 15 lakhs (earlier 10 lakhs) or companies not having a share capital whose number of members as stated in the articles of association does not exceed twenty, are exempted from paying fee on INC-32 (SPICe). This amendment shall come in to effect from March 18, 2019. ***–[Ministry of Corporate Affairs, 6th March, 2019 (MCA)]***

5) INSOLVENCY AND BANKRUPTCY (APPLICATION TO ADJUDICATING

AUTHORITY) AMENDMENT RULES, 2019

MCA has amended the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 as follows:
(a)The Heading of Form 1 has been substituted with the following heading - "Application By Financial Creditor(s) To Initiate Corporate Insolvency Resolution Process "Under Chapter II Of Part II/ Under Chapter IV Of Part II Of The Code" while Part-II of the form has been amended to insert details of Corporate Debtor after serial number 5.

(b)The Heading of Form 5 has been substituted with the following heading - "Application By Operational Creditor (s) To Initiate Corporate Insolvency Resolution Process "Under Chapter II OF PART II/ Under Chapter IV Of Part II Of The Code" while Part-II of the form has been amended to insert details of Corporate Debtor after serial number 7.

(c)The Heading of Form 6 has been substituted with the following heading – "Application By Corporate Applicant To Initiate Corporate Insolvency Resolution Process *Under Chapter II Of Part II/ Under Chapter IV Of Part II Of The Code" while Part-II of the form has been amended to insert details of Corporate Debtor after serial number 8. ***–[Ministry of Corporate Affairs, 14th March, 2019 (MCA)]***

6) IBBI ISSUES GUIDELINES FOR APPOINTMENT OF INSOLVENCY PROFESSIONALS AS ADMINISTRATORS UNDER THE SEBI (APPOINTMENT OF ADMINISTRATOR AND PROCEDURE FOR REFUNDING TO THE INVESTORS) REGULATIONS, 2018

The SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, (Regulations) provide for appointment of Insolvency Professionals (IPs) as Administrators for the purposes specified therein. IBBI in in consultation with SEBI has issued Guidelines to facilitate appointment of IPs as Administrators as follows:

The IBBI and the SEBI have mutually agreed to use a Panel of IPs for appointment as Administrators. IBBI shall prepare a Panel of IPs keeping in view the requirements of SEBI and the Regulations and the SEBI shall appoint the IPs from the Panel as Administrators, as per its requirement.

A Panel shall be valid for six months and a new Panel will replace the earlier Panel every six months.

An IP will be eligible to be in the Panel of IPs if there is no disciplinary proceeding pending against him; he has not been convicted at any time in the last three years by a court of competent jurisdiction; he expresses his interest to be included in the Panel for the relevant period and he undertakes to discharge the responsibility as an Administrator, as and when he may be appointed by the SEBI.

The Panel shall have Zone wise list of IPs. An IP will be included in the Panel against the Zone where his registered office (address as registered with the IBBI) is located.

The Board shall invite expression of interest to act as an Administrator via e-mail to IPs. The

expression of interest must be received by the Board in the specified form i.e., Form A by the specified date.

An IP, who is included in the Panel based on his expression of interest, must not refuse to act as Administrator, if appointed by SEBI; withdraw his interest to act as Administrator, and surrender his registration during the validity of the Panel.

An IP who declines to act as Administrator, on being appointed by SEBI, shall not be included in the Panel for the next five years, without prejudice to any other action that may be taken by the IBBI.

The IBBI shall include the IPs, who have expressed their interest, in the Panel based number of Ongoing Processes (40% weightage), number of Completed Processes as IRP / RP (20% weightage) and number of Completed Processes as Liquidator / Bankruptcy Trustee (40% weightage).

IPs will be placed in the list as per order of their scores. The IP with higher score will be placed above the IP securing lower score. Further, where two or more IPs get the same score, they will be placed in the Panel in order of the date of their registration with the IBBI. The IP registered earlier will be placed above the IP registered later. This process will be undertaken by a team of officers of the IBBI, as may be identified by a Whole-Time Member. ***–[Insolvency and bankruptcy Board of India, 26th March, 2019 (IBBI)]***

7) SYNERGY MARKETING INC V. SIDDHARTH INTERCRAFTS PVT. LTD

Synergy Marketing INC, a sole proprietary concern has filed this petition represented by its sole proprietor, Mr. Jitendra Nigam against the Corporate Debtor, Siddharth Intercraft Pvt. Ltd. in the capacity of an Operational Creditor seeking to initiate the Corporate Insolvency Resolution Process (CIRP) under Section 9 of IBC in view of the defaults committed in relation to the invoices raised for supply of goods to the Corporate Debtor. The Corporate debtor has contended that the petition has not been filed by an authorised and competent person as contemplated under the provisions of IBC and that no authorisation has been given to the person who has filed the petition before this Tribunal.

The issue before the Jaipur bench of National Company Law Tribunal (NCLT) was whether a sole proprietary concern is entitled to maintain a petition under the provisions of IBC?

NCLT held that from the definition of an 'operational Creditor' as given u/s 5(20), it is evident that a person to whom an operational Debt is owed and includes any person to whom such debt has been legally assigned or transferred is competent to file a petition in relation to such operational Debt due and defaulted. However, the definition of "Person" u/s 3(23) even though, includes various entities omits a sole proprietary concern within its ambit, even though, it is seen that the definition of a person includes any individual also a person resident outside India as well.
Taking in to consideration the definitions of "Person" and "Operational Creditor" under Sections 3(23) and 5(20) of the IBC and considering the provisions of Section 9 which entitles only an Operational Creditor to initiate proceedings seeking CIRP, it is evident that an Operational Creditor as defined under the provisions of IBC should be a person as defined u/s 3(23) of the IBC in order to maintain a petition

u/s 9 of the IBC. In the absence of a sole proprietary person not being included in the definition of a "Person", the Tribunal was of the view that a petition cannot be maintained. Thus, the petition was dismissed. –***[Synergy Marketing INC* v. *Siddharth Intercrafts Pvt. Ltd, (IB No 08/,IPR12018), 8th March, 2019 (NCLT Jaipur Bench)]***

8) SHARAD SANGHI V. MS. VANDANA GARG & ORS.

The 'Corporate Insolvency Resolution Process'(CIRP) was initiated against 'Jyoti Structures Ltd.'- ('Corporate Debtor') on 12th July, 2017. The Appellant- 'Mr. Sharad Sanghi' filed 'Resolution Plan' along with others. After negotiation with the 'Committee of Creditors', the 'Resolution Plan' was improved by the Appellant. E-voting of the 'Committee of Creditors' was held between 26th March, 2018 and 27th March, 2018 during which members with 62.66% voting shares voted in favour of the 'Resolution Plan. Thereafter, a few other members also voted in favour of the Resolution Plan. Thus, in fact, the voting which started on 26th March, 2018 continued up to 6th April, 2018. Finally, the 'Committee of Creditors' with 81.31% of the voting shares approved the 'Resolution Plan' on 6th April, 2018. The 'Resolution Professional' submitted the approved 'Resolution Plan' of Mr. Sharad Sanghi before the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench and also requested to exclude certain period. However, the Adjudicating Authority by impugned order dated 31st July, 2018 rejected the prayer and ordered for liquidation, though it noticed that the total votes in favour of the 'Resolution Plan' stood at 81.31% .

The rejection was made mainly on two grounds – (i) that total period of 270 days had lapsed by the time last voting took place on 2nd April, 2018 and (ii) as on 26th and 27th March, 2018, the voting percentage was 62.66% which is less than 75%. The Adjudicating Authority also noticed the viability and the feasibility of the 'Resolution Plan' observing that *"the admitted claim against this company is Rs. 7,010.55 crores, liquidation is Rs. 1,112.52crores. we have not come across anywhere as to what the fair value of this company is. The resolution plan given in this case will result into 43% haircut to the creditors of the company. Out of Rs.3,965.06crores, value of the resolution plan amount, only Rs.50crores will come as up-front payment, Rs.75crores will come in one year, remaining will come to the Company Appeal (AT) (Insol.) Nos. 461, 464 & 548 of 2018 creditors in as staggered payments in a period of 15 years from the effective date."*

In all these appeals a common impugned order dated 31st July, 2018 is under challenge and common question of law is involved, hence were heard together and disposed of by a common judgment. Appellants submitted that application under Section 7 was admitted on 4th July, 2017 and order was signed and uploaded on 12th July, 2017 i.e., after eight days whereinafter the 'Interim Resolution Professional' had taken charge. Thus, the aforesaid period of eight days if excluded, then it will be clear that the approved 'Resolution Plan' was approved and submitted within 270 days which comes to 8th April, 2018.

The issue framed before the National Company Law Appellate Tribunal (NCLAT) was whether a member of a Committee of Creditors who has already opined, after final decision, can change its opinion or not?

Referring to Reg. 26(2) of the (Insolvency Resolution Process for Corporate Persons)

Regulations, 2016, NCLAT observed that in view of the Regulation 26(2), the Adjudicating Authority refused to accept the change of voting as made by some of the members of the 'Committee of Creditors'. Further, on examining Section 30(3) and (5) of the Code, NCLAT held that it is clear that the 'Committee of Creditors' is required to notice the 'Resolution Plan' to find out its viability and feasibility apart from the financial matrix and in appropriate cases may ask the 'Resolution Applicant' to improve the plan. The date of approval for 'Resolution Plan' is fixed by the 'Committee of Creditors'. They may fix the date of voting and in appropriate case they may extend the period of voting. There is no provision that once a voting is made, after the final result, if it comes to the conclusion finally in absence of approval of the plan, the 'Corporate Debtor' may be ordered for liquidation. It is always open to the 'Committee of Creditors' to change their opinion.

NCLAT observed that Regulation 26(2) being directory cannot override the power of the 'Committee of Creditors', which is the final decision making authority in accepting or rejecting a 'Resolution Plan'. The Insolvency and Bankruptcy Board of India also noticed that Regulation 26(2) is not workable and will amount to interference with the power of the 'Committee of Creditors' as vested under the Insolvency and Bankruptcy Code, 2016 and therefore, the Insolvency and Bankruptcy Board of India deleted Regulation 26(2) w.e.f. 4th July, 2018.

A 'Resolution Plan' which may be viable, feasible and of acceptable financial matrix and which is not against the provision of Section 30(2), if majority of the members having voting shares approve it but falls short of the 75% (now 66%) limit as has been prescribed and later on it comes to the notice of one or other members that because of the failure the 'Corporate Debtor' will be liquidated, it is always open to the members to change its opinion subsequently with the approval of the rest of the members of the 'Committee of Creditors' but it should be within 270 days. In view of the aforesaid findings and the facts of the case, NCLAT held that the 'Resolution Plan' in question stands approved by the 'Committee of Creditors' with 81.39% voting shares.

In the present case, as the application was admitted on 4th July, 2017 and after signature it was uploaded on 12th July, 2017 i.e., eight days and the 'Interim Resolution Professional' joined much thereafter, NCLAT was of the view that the Adjudicating Authority should have excluded at least eight days of period during which the order was passed, signed and subsequently uploaded. If the aforesaid period of eight days is excluded, then the 'Resolution Plan' was approved within 270 days.

In view of the aforesaid findings, NCLAT set aside the impugned order and held that the 'Resolution Plan' being in conformity with Section 30(2) warranted approval by the Adjudicating Authority. However, NCLAT also made it clear that to make the 'Resolution Process' successful, though it is open to the 'Committee of Creditors' to change its opinion by assenting in favour of one or other plan, the 'Committee of Creditors' once voted in favour of the 'Resolution Plan' cannot change its views. ***–[Sharad Sanghi* v. *Ms. Vandana Garg & Ors., Company Appeal (AT) (Insolvency) No. 461 of 2018, 19th March, 2019 (NCLAT)]***

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SECURITIES

1) SEBI MAKES KEY DECISIONS REGARDING InvITs, REITs, CORPORATE DEBT RESTRUCTURING

Amendments to SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) and the SEBI (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations): The Board has approved the following amendments: (a) Minimum allotment and trading lot for publicly issued InvITs and REITs shall be made in the multiples of a lot, each consisting of 100 units. Value of such allotment lot for InvITs shall be Rs. 1 lakh and for REITs Rs. 50,000. (b) The leverage limit for InvIT's increased from existing 49% to 70% of InvIT assets subject to certain disclosure and compliance requirements such as the consolidated debt of the InvIT and the project debt having a credit rating of AAA. (c) A separate framework for privately placed unlisted InvITs, which provide sufficient flexibility to both issuers and investors shall be created. These include the following: (i) The InvIT will need a minimum track record of 6 distributions on a continuous basis, post listing, in the years just preceding the financial year in which the enhanced borrowings are proposed to be made. (ii) For this, the minimum number of investors would be determined by the issuer, including the maximum holding of units by a single investor. The leverage would be determined by the issuer in consultation with investors. (iii) The underlying assets can be completed, under construction or both, while the minimum investment by an investor cannot be less than Rs. 1 crore

Innovators Growth Platform: To make it easier for start-ups to get listed in stock market and raise funds, SEBI has now approved framework to help investors get accredited for investments in such entities. The investor will make an application to the stock exchanges or depositories in the prescribed manner for recognition as an accredited investors (AI) for the purpose of the Innovators Growth Platform (IGP). The accreditation granted to investors shall be valid for three years.

Corporate Debt Restructuring: Open offer requirements provided in SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Regulations") and conditions for preferential issue provided in SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 will be restricted to all scheduled commercial banks (excluding Regional Rural Banks) and all India Financial Institutions for acquisitions in their ordinary course of business for corporate debt restructuring. Such exemptions will not be available for acquisition of shares by persons other than aforesaid lenders by way of allotment by the target company or purchase from lenders.

Valuation of money market and debt securities by Mutual Funds (MFs): To make the existing valuation practices more reflective of the realizable value of money market and debt securities with residual maturity upto 60 days, the Board has approved: (a) Reducing the residual maturity limit for amortization based valuation by Mutual Funds from 60 to 30 days. (b) The threshold maintained between reference price and valuation price shall be ±0.025%. Further, reference price shall be taken as security level price given by the valuation agencies. (c) The valuation agencies appointed by the Association of Mutual Funds in India (AMFI) may provide valuation of money market and debt securities rated below investment grade. (d) For valuation of money market debt securities rated below investment grade, Asset Management Companies (AMCs) may deviate from the valuation provided by the

valuation agencies subject to recording of detailed rationale for such deviations, appropriate reporting to the Board of AMC and Trustees and appropriate disclosures to investors.

Participation of Institutional Investors in Commodity Derivatives Markets in India: It has permitted participation by MFs and Portfolio Managers in Exchange Traded Commodity Derivatives subject to certain safeguards. Category – III Alternative Investment Funds (AIFs) which are already permitted to participate in Commodity derivatives, have now been permitted to deal with goods received in delivery against physical settlement of such contracts.

Amendments to SEBI (Debenture Trustee) Regulations, 1993, SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Listing Obligations and Disclosure Requirements), 2015 (LODR): Pursuant to its Consultation Paper on Review of the Regulatory Framework for Debenture Trustees (DTs) proposing measures to strengthen the framework for DTs, SEBI has approved the following amendments: (a) Minimum net worth requirement of a DT increased from Rs. 2 crore to Rs. 10 crore. (b) It shall not be compulsory to call for a meeting of debenture holders in the event of default in payment obligation by issuer in case of public issue of debt securities. (c) DTs to obtain consent of the debenture holders, wherever applicable, by E-voting. (d) In case of delay in creation of charge in favour of DT within the specified period, the issuer shall pay additional interest as specified in the Trust Deed and disclosed in the Offer Document to the debenture holders for the period of delay in creation of charge. (e) In case of issuers having both listed equity and debt securities, the certificate from the DT as per the requirement of Reg.52 (5) of LODR shall be submitted to the stock exchanges by the issuer within 7 working days from the date of submission of financial results to the stock exchanges.

Other Decisions: (a) To facilitate ease of doing business for the custodians, it has decided to grant permanent registration to custodians instead of periodical renewal every three years. (b) It has also approved reduction in fees for brokers and exchanges. The fees payable by brokers has been reduced by 33.33% while the fees payable by brokers for Agri-Commodity derivatives transactions has been reduced by 93.33%. Fees payable by the issuers for one refiling of offer documents reduced by 50% from the current levels, if the refiling is done within one year of validity of observation letter. Further, it has reduced the regulatory fee rate payable by the stock exchanges by 80% from the current Rs. 1 cr plus Rs. 6/- per crore for the turnover in excess of Rs. 10 Lac crore to Rs. 1 cr. Plus Rs. 1.20/- per crore for the turnover in excess of Rs. 10 Lac crore without any upper ceiling. ***–[Securities Exchange Board of India (SEBI) Board Meeting, 1st march, 2019]***

2) SEBI REVIEWS NORMS FOR FPI INVESTMENTS IN DEBT SECURITIES

SEBI had issued circulars both dated June 15, 2018 announcing that no Foreign Portfolio Investor (FPI) shall have an exposure of more than 20% of its corporate bond portfolio to a single corporate (including exposure to entities related to the corporate).

However, to encourage a wider spectrum of investors to access the Indian corporate debt market, RBI issued Circular dated February 15, 2019 withdrawing the provision w.r.t. exposure of more than 20% of FPI's corporate with immediate

effect. Similarly, to give effect to the same, SEBI has also issued this Circular withdrawing the provision with immediate effect. – ***[IMD/FPIC/CIR/P/2019/37, 12th march, 2019 (SEBI)]***

3) SEBI ISSUES CLARIFICATION ON PARTICIPATION OF EFIS IN COMMODITY DERIVATIVES IN IFSC

SEBI by its Circular dated January 04, 2017 issued Guidelines for participation/functioning of Eligible Foreign Investors (EFIs) and Foreign Portfolio Investors (FPIs) in International Financial Services Centre (IFSC). SEBI has now clarified that EFIs may participate in commodity derivatives contracts traded in stock exchanges in IFSC subject to the following: (a) The participation would be limited to the derivatives contracts in non-agricultural commodities only, (b) Contracts would be cash settled on the settlement price determined on overseas exchanges, and (c) All the transactions shall be denominated in foreign currency only. – ***[SEBI/HO/MRD/DRMNP/CIR/P/2019/39, 18th March, 2019 (SEBI)]***

4) SEBI REVISES NORMS FOR VALUATION OF DEBT SECURITIES BY MUTUAL FUNDS

Pursuant to its decision in the Board meeting of March 1, 2019 SEBI has revised the norms regarding valuation of money market and debt securities by Mutual Funds (MFs). SEBI Circular dated February 02, 2010 r/w Circular dated February 28, 2012 permit amortization based valuation of non-traded money market and debt securities, including floating rate securities, with residual maturity of up to 60 days. In order to make the existing valuation practices for aforesaid securities more reflective of the realizable value, it has now been decided:

Valuation of money market and debt securities of short term maturity

(a) The residual maturity for amortisation-based valuation would be reduced from existing 60 days to 30 days. (b) The amortized price shall be compared with the reference price which shall be the average of the security level price of such security as provided by the agencies appointed by AMFI (Association of Mutual Funds in India) for said purpose ("valuation agencies"). The amortized price shall be used for valuation only if it is within a threshold of ±0.025% of the reference price. In case of deviation beyond this threshold, the price shall be adjusted to bring it within the threshold of ±0.025% of the reference price.

Valuation of money market and debt securities which are rated below investment grade:

(a) All money market and debt securities which are rated below investment grade shall be valued at the price provided by valuation agencies. Till the valuation agencies compute the valuations, such securities would be valued on the basis of indicative haircuts provided by the agencies.

(b) In case of trades during the interim period between date of credit event and receipt of valuation price from valuation agencies, Asset Management Companies (AMCs) shall consider such traded price for valuation if it is lower than the price post standard haircut. The said traded price shall be considered for valuation till the valuation price is determined by the valuation agencies. (c) In case of trades after the valuation price is computed by the valuation agencies and where the traded price is lower than such computed price, such traded price shall be

considered for the purpose of valuation and the valuation price may be revised accordingly. (d) AMCs may deviate from the indicative haircuts and/or the valuation price for money market and debt securities rated below investment grade provided by the valuation agencies subject to certain conditions such as providing detailed rationale for deviation from the price post haircuts or the price provided by the valuation agencies should be recorded by the AMC. Further, AMCs should immediately disclose instances of deviations under a separate head on their websites

Para 1.0 of the Circular shall be applicable within 90 days from date of issuance of the circular. With respect to para 2.0, a timeline of 90 days from date of issuance of the circular is provided for valuation agencies to develop necessary systems to provide prices of debt and money market securities rated below investment grade. However, in case of a credit event, till the system is in place, the provisions of paras 2.1.2., 2.1.3.1, 2.1.3.3 and 2.1.4 of the Circular shall be applicable. ***–[SEBI/HO/IMD/DF4/CIR/P/2019/41, 22nd March, 2019 (SEBI)]***

5) SEBI DEFERS IMPLEMENTATION OF PROVISION OF LISTING REGULATIONS REGARDING RELATED PARTY ROYALTY PAYMENT

Deferral of implementation of Reg. 23(1A) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) – payment relating to royalty and brand usage - Regulation 23(1A) of the SEBI (LODR) Regulations requires that payments made to related parties towards brand usage or royalty are to be considered material if the transactions exceed 2% of the annual consolidated turnover of the listed entity during a financial year. This requires approval of the shareholders, with no related party having a vote to approve such resolutions. **This provision was to come into effect from April 1, 2019. Pursuant to representation received from stakeholders, the Board has decided to defer the implementation of this provision for three months i.e., till June 30, 2019. *–[Securities and Exchange Board of India (SEBI) Board Meeting, 27th March, 2019]***

6) SEBI ISSUES CLARIFICATION REGARDING TRANSFER OF SECURITIES HELD IN PHYSICAL MODE

In its board meeting of March 28, 2018, SEBI had decided that except in case of transmission or transposition of securities, requests for effecting transfer of securities shall not be processed unless the securities are held in dematerialized form with a depository. This measure shall come into effect from April 01, 2019. Pursuant to representations received, SEBI has clarified that:

(a) The above decision does not prohibit the investor from holding the shares in physical form; investor has the option of holding shares in physical form even after April 01, 2019.
(b) Any investor who is desirous of transferring shares (which are held in physical form) after April 01, 2019 can do so only after the shares are dematerialized.
(c) The transfer deeds once lodged prior to deadline and returned due to deficiency in the document may be re-lodged for transfer even after the deadline of April 01, 2019.

The above decision is not applicable for demat of shares, transmission (i.e., transfer of title of shares by way of inheritance / succession) and transposition (i.e., re-arrangement / interchanging

of the order of name of shareholders) cases. – ***[Securities and Exchange Board of India (SEBI) Board Meeting, 28th March, 2019]***

7) REVISED SEBI PROCEDURE/ FORMATS FOR LIMITED REVIEW/ AUDIT REPORTS OF LISTED ENTITIES

SEBI has notified the revised procedure/ formats for Limited Review/ Audit Reports of Listed Entities (including those entities whose accounts are to be consolidated with the listed entity), applicable w.e.f. 1 April, 2019, in line with changes suggested by Kotak Committee regarding Group Audit. As per amended Reg. 33 of the SEBI (Listing Obligation and Disclosures Requirements) Regulations, 2015 ("SEBI LODR Regulations"), Statutory auditors of a listed entity shall undertake a limited review of the audit of all the entities/ companies whose accounts are to be consolidated with the listed entity as per AS 21, in accordance with guidelines issued by the SEBI on this matter.

The revised procedure and formats shall be applicable to all listed entities whose equity shares and convertible securities are listed on a recognised stock exchange and the statutory auditors of such entities. It is also applicable to all entities whose accounts are to be consolidated with the listed entity and the statutory auditors of entities whose accounts are to be consolidated with the listed entity.

While the formats for periodical financial results to be submitted by listed entities will continue to remain the same as specified in the Circulars dated November 30, 2015 and July 6, 2016, the formats for limited review reports and audit reports specified *vide* SEBI Circular dated November 30, 2015 are replaced by this Circular.

Accordingly, paras 3(d) and (e) of SEBI Circular dated November 30, 2015 and the relevant Annexures V, VI, VII and VIII referred to therein shall stand deleted. In place of the formats specified in these four Annexures, the Limited Review reports and Audit Reports, as applicable, shall be given by statutory auditors in the formats specified in this circular.

Insurance companies shall follow formats as prescribed by IRDA.

The provisions of this Circular shall be in addition to and not affect the norms and procedures with respect to limited review specified under Regulation 33(3)(c) and related provisions.

SEBI has advised the Institute of Chartered Accountants of India (ICAI) to issue necessary guidance to Chartered Accountants to ensure compliance with this Circular. – ***[CIR/CFD/CMD1/44/2019, 29th March, 2019***

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COMPETITION

1) CCI has approved the acquisition of the franchise rights in relation to bottling operations in the south and west regions from Pepsico

The Competition Commission of India pursuant to sub-section (1) of Section 31 of the Competition Act, 2002 has considered and approved the proposed acquisition of franchise rights in relation to the bottling operations, in south and west regions from Pepsico India Holdings Private Limited by Varun Beverages Limited. ***–[C-2019/02/645, Competition Commission of India (CCI)]***

2) CCI CONDUCTS RAIDS OVER PULSES PRICES

The Competition Commission of India (CCI) raided Mumbai units of global commodities trader Glencore, Africa's Export Trading Group and Edelweiss group, which previously had a commodities business in an inquiry into alleged collusion on the price of pulses.

CCI has been investigating allegations that the companies formed a cartel to discuss the pricing of pulses while importing and selling them in the Indian market at higher prices in 2015 and 2016, when India faced an acute shortage. The power to conduct raids is derived from Section 41 of the Competition Act, 2002. The Director General of the CCI, is required to obtain a warrant from a magistrate before conducting a raid after satisfying the said court with material documents and evidences of anti-competitive conduct. ***–[Hindu Businessline, March 18, 2019]***

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INDIRECT TAXES

a. CUSTOMS

1) TARIFF CONCESSION IN RESPECT OF CERTAIN GOODS IMPORTED FROM KOREA RP UNDER THE INDIA-KOREA COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT (CEPA)

Notification No. 152/2009-Customs dated 31.12.2009 amended so as to grant tariff concession in respect of goods under tariff sub heading 4809 90 imported from Korea RP under the India-Korea Comprehensive Economic Partnership Agreement (CEPA). – ***[Notification No. 07/2019 – Customs, dated 15th March, 2019]***

2) EXTENSION OF EXEMPTION FROM INTEGRATED TAX AND COMPENSATION CESS

Exemption from Integrated Tax and Compensation Cess extended upto 31.03.2020 on goods imported against AA/EPCG authorizations. - ***[Notification No. 08/2019 – Customs, dated 25th March, 2019]***

3) EXTENSION OF EXEMPTION FROM IGST AND COMPENSATION CESS TO EOUs

Notification No.52/2003-Customs dated 31.03.2003 amended for extending exemption from IGST and compensation cess to EOUs on imports till 31.03.2020. – ***[Notification No. 9/2019-Customs, dated 25th March, 2019]***

4) TARIFF CONCESSIONS TO IMPORTS OF SPECIFIED GOODS FROM JAPAN UNDER INDIA-JAPAN CEPA (IJCEPA)

Notification No. 69/2011-Customs dated 29.07.2011 amended so as to extend deeper tariff concessions to imports of specified goods from Japan under India-Japan CEPA (IJCEPA) with effect from 1st April, 2019. – ***[Notification No.10/2019 – Customs, dated 28th March, 2019]***

5) DELETION OF GOLAKGANJ LAND CUSTOMS STATION (LCS)

Notification No. 63/1994-Customs (N.T) dated 21st November, 1994 amended so as to delete

Golakganj Land Customs Station (LCS) for purpose of export of stone boulders, stone chips and coal from India. – ***[Notification No. 19/2019- Customs (N.T.), dated 01st March, 2019]***

6) DERA BABA NANAK LCS NOTIFIED

Notification No. 63/1994-Customs (N.T.) dated 21st November, 1994 amended so as to notify appointment of Dera Baba Nanak as Land Customs Station for the purpose of clearance of baggage. – ***[Notification No. 22/2019- Customs (N.T.), dated 15th March, 2019]***

7) FORMAT OF SHIPPING BILL FOR EXPORT OF GOODS (SB I & SB III) AMENDED

To acquire clearance of export, an exporter has to submit an application called shipping bill (for Sea Port or Airport) or Bill of Export (for land custom station). The CBIC has amended Format of Shipping Bill and Bill of Export used for Export of Goods. – ***[Notification No. 25 /2019- Customs (N.T.), dated 25th March, 2019]***

8) ADD ON ACETONE

Anti-dumping duty imposed on 'Acetone', originating in or exported from European Union, Singapore, South Africa and United States of America for a period of five years. – ***[Notification No. 14/2019-Customs (ADD), dated 25th March, 2019]***

9) ADD ON 'ETHYLENE VINYL ACETATE (EVA) SHEET FOR SOLAR MODULE'

Definitive anti-dumping duty imposed on 'Ethylene Vinyl Acetate (EVA) sheet for Solar Module', originating in or exported from China PR, Malaysia, Saudi Arabia and Thailand for a period of five years. – ***[Notification No. 15/2019-Customs (ADD), dated 29th March, 2019]***

10) SCHEME FOR REBATE OF STATE AND CENTRAL TAXES AND LEVIES ON EXPORT OF GARMENTS AND MADE-UPS (ROSCTL)

The Ministry of Textiles (MoT) has notified a new scheme called Scheme for 'Rebate of State and Central Taxes and Levies (RoSCTL)' on export of garments and made-ups *vide*, Notification dated March 07, 2019, which has come into effect from March 07, 2019 and rate of rebates *vide* Notification No. dated March 08, 2019. The existing Rebate of State Levies (RoSL) scheme for garments and made-ups has already been discontinued from March 07, 2019. The Notification was available on website egazette.nic.in.

Therefore, the CBIC has notified that claims under the erstwhile RoSL scheme are to be processed for shipping bills with Let Export Order (LEO) till March 06, 2019. Under the RoSCTL, the benefits given by DGFT to exporters will be in the form of Merchandise Exports from India Scheme (MEIS) type duty credit scrips. It has been decided that claims filed under the existing scheme codes for the erstwhile RoSL scheme will be treated as claims filed under RoSCTL scheme. – ***[Circular No. 10/ 2019-Customs, dated 12th March, 2019]***

b. SERVICE TAX

1) SERVICES PROVIDED BY PROJECT IMPLEMENTATION AGENCIES UNDER THE DDUGKY EXEMPTED

The CBIC *vide* present Circular has exempted the services provided by project implementation agencies under the DDUGKY for the period commencing from the 1st of July, 2012 and ending with the 29th of February, 2016. – ***[Notification No. 1/2019-Service Tax, dated 6th March, 2019]***

c. GST

1) REGARDING EXEMPTION FROM REGISTRATION

The CBIC has given exemption from registration for any person engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs. 40 lakhs except the following persons-

a. persons required to take compulsory registration under Section 24 of the said Act;
b. persons engaged in making supplies of the under Tariff item 21050000, 21069020 and Chapter 24.
c. persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand;
d. persons exercising option under the provisions of sub-section (3) of Section 25, or such registered persons who intend to continue with their registration under the said Act. – ***[Notification No. 10/2019-Central Tax, dated 7th March, 2019]***

Similar notification has been issued under UTGST Act. – ***[Notification No. 2/2019- Union Territory Tax, dated 7th March, 2019]***

2) DUE DATES FOR FURNISHING FORMS

i. Due date for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover upto Rs. 1.5 crores for the months of April, May and June, 2019 is 31st July, 2019. – ***[Notification No. 11/2019 – Central Tax, dated 7th March, 2019]***
ii. Due date for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs. 1.5 crores for each of the months from April, 2019 to June, 2019 is till the eleventh day of the month succeeding such month. – ***[Notification No. 12/2019 – Central Tax, dated 7th March, 2019]***
iii. Due date for furnishing of FORM GSTR-3B for each of the months from April, 2019 to June, 2019, shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month. – ***[Notification No. 13/2019 – Central Tax, dated 7th March, 2019]***
iv. Due date for furnishing of FORM GST ITC-04 for the period July 2017 to March 2019 has been extended till 30th June 2019. – ***[Notification No. 15/2019 – Central Tax, dated 28th March, 2019]***

3) GST COMPOSITION SCHEME LIMIT INCREASED TO RS 1.5 CRORE

Notification No. 08/2017 - Central Tax dated 27.06.2017 superseded in order to extend the limit of threshold of aggregate turnover for availing

Composition Scheme u/s 10 of the CGST Act, 2017 to Rs. 1.5 crores. – ***[Notification No. 14/2019 – Central Tax, dated 7th March, 2019]***

4) CENTRAL GOODS AND SERVICES TAX (SECOND AMENDMENT) RULES, 2019

CBIC has amended various Rules and Forms prescribed under the CGST Rules, 2017. CGST Rules 41, 42, 43, 100 and 142 have been amended, whereas new CGST Rule 88A has been inserted. Further, certain Forms under CGST Rules have been amended, viz. DRC-01, DRC-03, DRC-07, DRC-08, ASMT-13, ASMT-15, ASMT-16, etc., in line with recommendations of 33rd/ 34th GST Council Meetings relating mainly to reduction of GST rates in housing sector. These amendments are applicable w.e.f. 1 April, 2019. – ***[Notification No. 16/2019 – Central Tax, dated 29th March, 2019]***

5) OPTIONAL 6% GST COMPOSITION SCHEME W.E.F. 1ST APRIL 2019

The CBIC *vide* present Notification has provided an indirect composition scheme for Supplier of services whose turnover of previous year is up to 50L with 6% rate and no ITC w.e.f. 01st April 2019. – ***[Notification No. 2/2019-Central Tax (Rate), dated 7th March, 2019]***

6) NEW GST RATES FOR REAL ESTATE SECTOR

The CBIC has issued following Notifications / Orders which related to new rate of CGST in the real estate (residential unit). Notifications relates to Rate of Tax payable on Real Estate Sector Services and Goods, Applicability of Reverse Charge Mechanism on Real Estate Goods and Services and also Applicability of Reverse Charge Mechanism on Purchase of Goods and Services related to Real Estate Sector. Notification also include notification new GST Rule 88A-Order of utilization of input tax credit, Amended Rule 100 related to Assessment in certain cases:

i. GST rates on real estate sector services w.e.f 01.04.2019. – ***[Notification No. 03/2019-Central Tax (Rate), dated 29th March, 2019]***
   Similar notifications were issued under IGST Act and UTGST Act. – ***[Notification No. 03/2019- Integrated Tax (Rate) & Notification No. 3/2019- Union Territory Tax (Rate), dated 29th March, 2019]***
ii. Exemption of certain services for Real Estate Sector. – ***[Notification No. 04/2019-Central Tax (Rate), dated 29th March, 2019]***
   Similar notifications were issued under IGST Act and UTGST Act. – ***[Notification No. 04/2019- Integrated Tax (Rate) & Notification No. 04/2019- Union Territory Tax (Rate), dated 29th March, 2019]***
iii. Specification of services to be taxed under Reverse Charge Mechanism (RCM) for real estate sector. – ***[Notification No. 05/2019-Central Tax (Rate), dated 29th March, 2019]***
   Similar notifications were issued under IGST Act and UTGST Act. – ***[Notification No. 05/2019- Integrated Tax (Rate) & Notification No. 05/2019- Union Territory Tax (Rate), dated 29th March, 2019]***
iv. Notification of person liable to pay GST on development rights, FSI etc. – ***[Notification No. 06/2019-Central Tax (Rate), dated 29th March, 2019]***
   Similar notifications were issued under IGST Act and UTGST Act. – ***[Notification No. 06/2019- Integrated Tax (Rate) & Notification No. 06/2019- Union Territory Tax (Rate), dated 29th March, 2019]***

v. GST on real estate sector under RCM on supply of goods or services from unregistered supplier. – ***[Notification No. 07/2019-Central Tax (Rate), dated 29th March, 2019]***
Similar notifications were issued under IGST Act and UTGST Act. – ***[Notification No. 07/2019- Integrated Tax (Rate) & Notification No. 07/2019- Union Territory Tax (Rate), dated 29th March, 2019]***

vi. GST rate on supply of goods for real estate sector under RCM by unregistered person. – ***[Notification No. 08/2019-Central Tax (Rate), dated 29th March, 2019]***
Similar notifications were issued under IGST Act and UTGST Act. – ***[Notification No. 08/2019- Integrated Tax (Rate) & Notification No. 08/2019- Union Territory Tax (Rate), dated 29th March, 2019]***

vii. CBIC amends new GST Composition Scheme rules related to ITC. – ***[Notification No. 09/2019-Central Tax (Rate), dated 29th March, 2019]***
Similar notification was issued under the UTGST Act. – ***[Notification No. 09/2019-Union Territory Tax (Rate), dated 29th March, 2019]***

7) CLARIFICATION ON VARIOUS DOUBTS RELATED TO TREATMENT OF SALES PROMOTION SCHEMES UNDER GST

The CBIC has clarified various issues faced by taxpayers regarding Treatment of different type of Sales Promotion Schemes (e.g. Free Samples and Gifts, Buy One get One Free Offers, Discounts including 'Buy more, save more' offers, secondary Discounts) under GST, including on taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier, etc. The gist of the clarification is as under:

Promotion scheme	Whether treated as supply	Value of supply	Whether input tax credit (ITC) available	Remark
Free samples and Gifts	No (except in case of activities mentioned in schedule I of the CGST Act)	N/A	No	Supplier shall be eligible to avail credit of ITC, if distribution of free samples or gifts falls within the scope of supply on account of provision contained in schedule I
Buy one get one Free	Yes	--	Yes	Taxability of such supply shall be dependent upon whether the supply is a composite supply or mixed supply
Discounts including buy more get more and volume discount	--	Shall be net off discounts	Yes	Subject to satisfying the conditions prescribed under section 15(3) of the CGST Act
Secondary discount i.e. discounts not known at the time of supply	--	Gross Value (discount adjustment not allowed)	N/A	--

[Circular No. 92/11/2019-GST, dated 7th March, 2019]

8) REGARDING NATURE OF SUPPLY OF PRIORITY SECTOR LENDING CERTIFICATES (PSLC)

Representations have been received requesting to clarify whether IGST or CGST/ SGST is payable

for trading of PSLC by the banks on e-Kuber portal of RBI. It is clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e., 01.07.2017 to 27.05.2018 and from 28.05.2018 onwards. However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply. – ***[Circular No. 93/12/2019-GST, dated 08th March, 2019]***

9) VERIFICATION OF APPLICATIONS FOR GRANT OF NEW REGISTRATION

The CBIC noted that there have been instances when registration gets cancelled due to one reason or any other reason, such businesses prefer to apply for new registration rather than applying for revocation of cancellation of registration. There is possibility that such person might not have furnished requisite returns and not paid tax for the tax periods covered under the old/cancelled registration. Further, such persons would be required to pay all liabilities due from them for the relevant period in case they apply for revocation of cancellation of registration. Hence, to avoid payment of the tax liabilities, such persons may be using the route of applying for fresh registration. One can take separate registration on the same PAN in the same State.

Now, CBIC has instructed its officer to exercise due caution while processing such applications. It is clarified that not applying for revocation of cancellation of registration will be deemed to be a 'deficiency' and could be reason for rejection of application for new registration. – ***[Circular No. 95/14/2019-GST, dated 28th March, 2019]***

10) CLARIFICATION IN RESPECT OF TRANSFER OF INPUT TAX CREDIT IN CASE OF DEATH OF SOLE PROPRIETOR

It has been clarified that transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor. Accordingly, a mechanism has been specified for transferring unutilised input tax credit.

The transferee or the successor, will be liable to be registered with effect from the date of such transfer or succession, where a business is transferred to another person for any reasons, including death of the proprietor. Here the applicant will be required to mention the reason to obtain registration as 'death of the proprietor,' in the registration form (GST REG-01) to be filed electronically in the common portal.

The legal hire (of the dead sole proprietor) will be required to give application for cancellation of the existing registration. The GST Identification Number (GSTIN) of transferee to whom the business has been transferred is also required to be mentioned to link the GSTIN of the transferor with the GSTIN of transferee. In case of death of sole proprietor, if the business is continued by any person being transferee or successor of business, it shall be construed as transfer of business. This means transfer of unutilised input tax credit and liability to pay tax along with penalty, if any, will also be possible.

In case of transfer of business on account of death of sole proprietor, the transferee / successor will file 'FORM GST ITC-02' in respect of the registration to be cancelled. Also, such an action is

required to be completed before applying for the cancellation. This should be filed before filing the application for cancellation of such registration. Upon acceptance by the transferee/ successor, the unutilised input tax credit specified in 'FORM GST ITC-02' will be credited to his electronic credit ledger. – ***[Circular No. 96/15/2019-GST, dated 28th March, 2019]***

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INTELLECTUAL PROPERTY RIGHTS

1) FAILURE TO CONDUCT SEARCH IN THE TRADE MARK REGISTRY BEFORE ADOPTING A MARK AMOUNTS TO FAILURE TO DISCHARGE DUTY OF CARE AND DUE DILIGENCE

The dispute between the Parties arose on account of the Defendant's use of the mark "GODFATHER ELECTRA", being deceptively similar to the Plaintiff's mark "ELECTRA". The Court further granted a permanent injunction in favour of the Plaintiff on the ground that it was the registered proprietor of the mark "ELECTRA", and the Defendant could not claim any right to use the same on account of prior use as its application was filed subsequent to the registration in the Plaintiff's name. The Court observed that the defendant, being a big corporation, had failed to discharge its duty of care and due diligence as it had not conducted a search in the Trade Marks Registry with regard to the impugned mark ELECTRA for goods falling under Classes 32 and 33 before adopting the said mark. – ***[Radico Khaitan Ltd. v. M/S. Devans Modern Breweries Ltd., dated 7th March, 2019 (Delhi HC)]***

2) "MAKEMYTRIP" & "MAKEMYPRAVAAS" FOUND TO BE DECEPTIVELY SIMILAR

In an ex-parte decree, the Delhi HC has found that the mark of the Defendants "MakeMyPravaas" is phonetically, visually, structurally and conceptually similar to the Plaintiff's registered mark "MakeMyTrip". – ***[Makemy Trip (India) Private Ltd. v. Pravasi Guide Private Limited & Ors., dated 19th March, 2019 (Delhi HC)]***

3) "WHILE PUFFERY IS PERMITTED, DISPARAGEMENT AND DENIGRATION IS NOT." – DELHI HC

The Plaintiff - TATA Chemicals Ltd. has filed the present suit for perpetual injunction, rendition of accounts and damages against the Defendant - Puro Wellness Pvt. Ltd. The Plaintiff is the manufacturer of TATA Salt. The Defendant manufactures Puro Healthy Salt. It is the case of the Plaintiff that the Defendant has embarked on a consistent campaign against the Plaintiff's product - TATA Salt by - Releasing television commercials which continue the false propaganda; An interview of the promoter of the Defendant company - Mr. Ruchir Modi in the Economic Times; Issuance of a flyer/pamphlet containing objectionable content; A video which was published and circulated by the Defendant.
Court observed that a perusal of the impugned material, as a whole, shows that the theme and message is the same in all of them. The purpose is to clearly convince customers that white salt is dangerous for health. The said message is being conveyed by making references and allusions to TATA Salt. In the video, the TATA Salt packaging is clearly visible. In the pamphlets and in the

booklet, the TATA Salt packaging is blurred, but there is no doubt that the packaging is clearly discernible. TATA Salt is a product which has been sold for several decades and this is a fact of which judicial notice can be taken. It has the requisite approvals and any product which does not comply with the FSSAI statute and regulations, cannot be sold. A comparison of white salt with poison is clearly meant to create panic amongst the consuming public and if allowed to be carried on unhindered, it can have a deleterious impact not just on the Plaintiff and its product, but also on customers, who could be forced to give up on the use of white salt, which is a basic ingredient in food cooked in almost every household in the country. The portrayal that white salt is bleached, manufactured in a chemical factory and comparable with paint or bleached clothes is not merely puffing but an exaggerated message which could lead to shaking up of customers' confidence. The court therefore restrained the Defendant from televising or publishing any commercials or any other advertising or promotional material in the print or electronic form which would result in disparagement or denigration of the Plaintiff's product/brand - TATA salt. – ***[Tata Chemicals Ltd.* v. *Puro Wellness Pvt. Ltd., dated 15th March, 2019 (Delhi HC)]***

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CONSUMER

1) THE CONSUMER FORUMS HAVE JURISDICTION TO DISMISS COMPLAINTS IN LIMINE

The Supreme Court of India has observed that consumer forums have the jurisdiction to dismiss the complaint in limine and decline its admission without notice to the opposite party. The Division Bench of the Supreme Court of India observed that in light of the amendment brought about in Section 13 of the Consumer Protection Act (the "Act"), jurisdiction to dismiss the complaint in limine may be exercised by the National Dispute Redressal Commission (NCDRC) having regard to facts of each case, i.e., in appropriate case.

The issue for consideration was whether the NCDRC was justified in dismissing a complaint in limine. It was brought to the notice of the bench that Section 13 of the Act has undergone amendment w.e.f. 15.03.2003. Earlier Section 13 had the words "procedure on receipt of complaint". However, after 15.03.2003, in place of these words, the words "on admission of a complaint" were substituted.

The Supreme Court observed that NCDRC does have the jurisdiction to dismiss the complaint in limine and decline its admission without notice to the opposite party. However, such jurisdiction to dismiss the complaint in limine has to be exercised by NCDRC having regard to facts of each case, i.e., in appropriate case. ***–[Anjaneya Jewellery vs. New India Assurance Co. Ltd., Civil Appeal No.6878 of 2018, 7th March, 2019, (Supreme Court of India)]***

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ENVIRONMENT

1) NGT SLAPS RS. 10 CRORE INTERIM PENALTY ON 3 GURGAON BUILDERS FOR ENVIRONMENTAL NORM VIOLATION

The NGT has slapped an interim penalty of Rs. 10 crore on three builders in Gurgaon for violation of environmental norms and damaging the environment. NGT noted that consent to establish and operate has not been obtained by the

builders in Sushant Lok 2 and 3, as required under the Water (Prevention and Control of Pollution) Act, 1974. The green panel imposed the environmental compensation on Ansal Buildwell Ltd., and its sister concern Aadharshila Towers Private Ltd. and Rigoss Estate Networks Private Ltd., while directing them to deposit the amount with the Central Pollution Control Board within a month. – ***[The Times of India, dated 28th March, 2019]***

2) NOISE POLLUTION IS A SERIOUS CRIME, DELHI COPS MUST ACT: NGT

Noise pollution beyond prescribed norms is a serious punishable crime, the NGT said and asked Delhi Police to map such hotspots as also put in place a surveillance mechanism for taking strict action against violators. The Bench directed the police commissioner to monitor the implementing officers in order to safeguard the right of citizens and email the report within a month. The NGT said that citizens have constitutional right to peaceful environment and noise pollution beyond prescribed norms is a serious punishable crime for which adequate preventive and remedial action is needed. – ***[The Times of India, dated 21st March, 2019]***

3) NGT FINES VOLKSWAGEN RS. 500 CRORE OVER 'CHEAT DEVICES'

The NGT slapped a fine of Rs. 500 crore on Volkswagen for "damaging the environment" through the use of a "cheat device" in its diesel cars in India. The NGT directed the German auto major to deposit the amount within two months while increasing the compensation amount from Rs. 171.3 crore, which had been recommended by an NGT-appointed committee, as a means of "creating deterrence".

Volkswagen, however, claimed it did not violate the norms and would challenge the order before the Supreme Court, reiterating its cars were compliant with the emission norms in India. – ***[The Times of India, dated 08th March, 2019]***

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