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## RBI/FEMA

### 1) RESTRICTIONS ON ACQUISITION OF FINANCIAL ASSETS BY ASSET RECONSTRUCTION COMPANIES FROM SPONSORS AND LENDERS

RBI has decided that Asset Reconstruction Companies (ARCs) shall not acquire financial assets from the following on a bilateral basis, whatever may be the consideration:

- (i) a bank/ financial institution which is the sponsor of the ARC;
- (ii) a bank/ financial institution which is either a lender to the ARC or a subscriber to the fund, if any, raised by the ARC for its operations;
- (iii) an entity in the group to which the ARC belongs.

However, they may participate in auctions of the financial assets provided such auctions are conducted in a transparent manner, on arm's length basis and the prices are determined by market forces. – **[DOR.NBFC(ARC) CC. No. 8/26.03.001/2019-20, dated 06th December, 2019]**

### 2) AVAILABILITY OF NATIONAL ELECTRONIC FUNDS TRANSFER (NEFT) SYSTEM ON 24X7 BASIS

RBI has decided that from 16th December, 2019 the facility of NEFT is available on a 24x7 basis. – **[DPSS (CO) RPPD No.1097/04.03.01/2019-20, dated 06th December, 2019]**

Also, in order to facilitate smooth settlement of NEFT transactions in a 24x7 environment, RBI has decided to provide an additional collateralised intra-day liquidity facility, to be called Liquidity Support (LS). – **[FMOD.MAOG.No.138/01.01.001/2019-20, dated 13th December, 2019]**

Further, effective 01st January, 2020, RBI has directed that member banks shall not levy any charges from their savings bank account holders for funds transfers done through NEFT system which are initiated online (viz. internet banking and/or mobile apps of the banks). – **[DPSS (CO) RPPD No.1140/04.03.01/2019-20, dated 16th December, 2019]**

### 3) OPERATIONAL RISK MANAGEMENT: PRICE / YIELD RANGE SETTING IN E-KUBER

In the recent past there have been a few instances of Fat Finger, Big Figure errors on the part of market participants in G Sec auctions. Realizing that such errors can cause financial loss to the bidders, the RBI has developed a “Price / Yield range setting” facility on its Core Banking Solution (CBS) platform, viz. e-Kuber.

This facility allows a participant to define a range i.e. a maximum and a minimum value for bids

they intend to submit. The range can be set in either price or yield terms, for each security, for every auction which can be set before the auction and can also be modified during the auction. Once the limits are set by the participating entity, auction bids will be automatically validated against the set limits.

The path for configuring the facility is: “Home> Primary Auctions/OMO Issues> Issue Price Yield Configuration” and the path for viewing the limits is: “Home> Primary Auctions/OMO Issues> View of Price/yield band for Issue reference”. – **[Ref. No. IDMD/1615/08.02.032/2019-20, dated 12th December, 2019]**

#### **4) REVIEW OF MASTER DIRECTIONS ON NON-BANKING FINANCIAL COMPANY PEER TO PEER LENDING PLATFORM (RESERVE BANK) DIRECTIONS, 2017**

RBI has reviewed the said directions and decided that:-

(i) The aggregate exposure of a lender to all borrowers at any point of time, across all P2P platforms, shall be subject to a cap of Rs.50,00,000 provided that such investments of the lenders on P2P platforms are consistent with their net-worth.

The lender investing more than Rs.10,00,000 across P2P platforms shall produce a certificate to P2P platforms from a practicing Chartered Accountant certifying minimum net-worth of Rs.50,00,000. Further, all the lenders shall submit declaration to P2P platforms that they have understood all the risks associated with lending transactions and that P2P platform does not assure return of principal/payment of interest.

(ii) Escrow accounts to be operated by bank promoted trustee for transfer of funds need not

be mandatorily maintained with the bank which has promoted the trustee. – **[DOR.NBFC(PD) CC.No.106/03.10.124/2019-20, dated 23rd December, 2019]**

#### **5) IFSC BANKING UNITS – PERMISSIBLE ACTIVITIES**

RBI, after receipt of few suggestions and queries from the stakeholders regarding operations of the IBUs and financial institutions in IFSCs, has issued directions relating to the setting up of IFSC banking units (IBUs). Accordingly, RBI has modified the directions as follows:

i. RBI will not prescribe any limit for raising short-term liabilities from banks. However, the IBUs must maintain LCR as applicable to Indian banks on a stand-alone basis and strictly follow the liquidity risk management guidelines issued by RBI to banks. Further, NSFR will also be applicable to IBUs as and when it is applied to Indian banks;

ii. IBUs are not allowed to open savings accounts. They can open foreign currency current accounts of units operating in IFSC and of non-resident institutional investors to facilitate their investment transactions. They can also open foreign currency current accounts (including escrow accounts) of their corporate borrowers subject to the provisions of FEMA 1999 and regulations issued thereunder, wherever applicable in addition to these provisions. However, IBUs cannot raise liabilities from retail customers, including high net worth individuals (HNIs). Also, no cheque facility will be available for holders of current accounts in the IBUs. All transactions through these accounts must be undertaken via bank transfers;

iii. IBUs can accept fixed deposits in foreign currency of tenor less than one year from non-

bank entities and can also repay fixed deposits prematurely without any time restrictions;

iv. IBUs will be required to scrupulously follow "Know Your Customer (KYC)", Combating of Financing of Terrorism (CFT) and other anti-money laundering instructions issued by RBI from time to time, including the reporting thereof, as prescribed by the Reserve Bank / other agencies in India. IBUs are prohibited from undertaking cash transactions. – ***[DOR.IBD.BC.26/23.13.004/2019-20, dated 23rd December, 2019]***

## **6) INTRODUCTION OF A NEW PREPAID PAYMENT INSTRUMENT (PPI) FOR TRANSACTIONS UPTO RS 10,000 A MONTH**

To give impetus to small value digital payments and for enhanced user experience, RBI has introduced a new type of semi-closed PPI with the following features:

- Such PPIs shall be issued by bank and non-bank PPI Issuers after obtaining minimum details of the PPI holder.
- The minimum details shall necessarily include a mobile number verified with One Time Pin (OTP) and a self-declaration of name and unique identity / identification number of any 'mandatory document' or 'officially valid document' (OVD) listed in the 'Master Direction - Know Your Customer (KYC) Direction, 2016' issued by Department of Regulation, Reserve Bank of India, as amended from time to time.
- These PPIs shall be reloadable in nature and issued in card or electronic form. Loading / Reloading shall be only from a bank account.
- The amount loaded in such PPIs during any month shall not exceed Rs.10,000 and the

total amount loaded during the financial year shall not exceed Rs.1,20,000.

- The amount outstanding at any point of time in such PPIs shall not exceed Rs.10,000.
- These PPIs shall be used only for purchase of goods and services and not for funds transfer.
- PPI issuers shall provide an option to close the PPI at any time and also allow to transfer the funds 'back to source' (payment source from where the PPI was loaded) at the time of closure.
- The features of such PPIs shall be clearly communicated to the PPI holder by SMS / e-mail / post or by any other means at the time of issuance of the PPI / before the first loading of funds.
- The minimum detail PPIs existing as on the date of this circular can be converted to the above type of PPI, if desired by the PPI holder. – ***[DPSS.CO.PD.No.1198/02.14.006/2019-20, dated 24th December, 2019]***

## **7) LARGE CO-OP BANKS DIRECTED TO REPORT EXPOSURES ABOVE RS 5 CRORE**

The RBI has directed large cooperative banks to report all exposures of Rs 5 crore and more to the Central Repository of Information on Large Credits (CRILC). CRILC has been created of commercial banks, all India financial institutions and certain non-banking financial companies with multiple objectives, which, among others, include strengthening offsite supervision and early recognition of financial distress. Earlier in its bi-monthly monetary policy review this month, the RBI had announced that to bring UCBs with assets of Rs 500 crore and above under the CRILC reporting framework. To start with,

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UCBs will be required to submit CRILC report on quarterly basis with effect from December 31, 2019. – *[DOR (PCB).BPD.Cir.No.7/13.05.000/2019-20, dated 27th December, 2019]*

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## FOREIGN TRADE

### 1) AMENDMENT IN POLICY CONDITION NO.2 (iii) TO CHAPTER 95 OF ITC (HS), 2017 – SCHEDULE – 1 (IMPORT POLICY)

The Foreign Trade Policy revised - the sample will be randomly picked from each consignment and will be sent to NABL accredited Labs for testing and clearance may be given by Customs on the condition that the product cannot be sold in the market till successful testing of the sample. Further, if the sample drawn fails to meet the required standards, the consignment will be sent back or will be destroyed at the cost of the importer.

A new Para (capital-D) is added to Section 2 (Indian Quality Standards) to the General Notes Regarding Import Policy of ITC (HS), 2017 as under:

2. (D) *Import Policy for Toys/Dolls etc: Import Policy for Toys/Dolls and similar other recreational goods under any chapter will be governed by BIS standards as specified in Policy Conditions 2 of Chapter 95. –*

*[Notification no. 33/2015-2020, 2nd December, 2019 (DGFT)]*

### 2) AMENDMENT IN PARA 2.25 OF FOREIGN TRADE POLICY, 2015-20

In addition to other existing policy conditions, the Foreign Trade Policy revised prohibiting import of goods, including these purchased from e-commerce portals through post or courier, where customs clearance is sought as gifts, except for life saving drugs)/ medicines and Rakhi (but not gifts related to Rakhi . Rakhi will be exempted as under Section 25(6) of Customs AC, 1962. Further import of goods as gifts with payment of full applicable duty is permissible. - *[Notification no. 35/2015-2020, 12th December, 2019 (DGFT)]*

### 3) AMENDMENT IN IMPORT POLICY CONDITIONS OF GOLD AND SILVER UNDER CHAPTER 71 OF ITC (HS), 2017, SCHEDULE -1 (IMPORT POLICY)

Import policy of gold in any form, other than monetary gold and silver in any form is amended from 'Free' to 'Restricted' ; import is only allowed through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies). However, import under Advance Authorisation and supply of gold directly by the foreign buyers to exporters under Para 4.45 of FTP against export orders is exempted. - *[Notification no. 36/2015-2020, 18th December, 2019 (DGFT)]*

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## CORPORATE

### 1) SUPREME COURT LAYS DOWN TEST TO DETERMINE POSITION OF CONTRACTUAL EMPLOYEE

A contract labour is employed through a contractor and their work tenure is affected on a contractual basis. The contractor provides labour to the principal employer by way of a contract. The employment of these labours can either be regulated by the contractor or the principal employer. However, the contract labours are susceptible to an irregular working environment and are unable to avail the benefits like those given to a permanent worker.

The Supreme Court in *Bharat Heavy Electricals Limited (BHEL) vs. Mahendra Prasad Jakmola & Ors* applied the test laid out in the case of *Bengal Nagpur Cotton Mills vs. Bharat Lala and Another* which are mentioned below:

- Whether the principal employer pays the salary instead of the contractor; and
- Whether the principal employer controls and supervises the work of the employee.

In the above case though the principal employer can control and direct the work to be done by such contract labour, but its ultimately the contractor who decides if such contract worker is to be assigned to the principal employer or is to be used otherwise.

Therefore, the ultimate supervision and control lies with the contractor as he decides the location, condition and duration of the employment. Thus, when contract labours are hired by the principal employer, the terms of employment are

often left ambiguous. Due to the lack of clarity they are often denied benefits which are provided to permanent employees of the principal employer. The test laid out by the Hon'ble Supreme Court clears the air on such ambiguity and provide a proper method to determine the position of contract labours. – *[Bharat Heavy Electricals Limited (BHEL) vs. Mahendra Prasad Jakmola & Ors, Dated 9th December, 2019]*

### 2) NCLAT SETTLES THE LAW ON MERGER OF AN LLP WITH A COMPANY

The Chennai Bench of the National Company Law Tribunal (NCLT) had sanctioned a merger of Real Image LLP, a limited liability partnership incorporated under the provisions of the Limited Liability Partnership Act, 2008, together with all its assets and liabilities, rights, title and interest in the immovable properties, on a going concern basis to Qube Cinema Technologies Private Limited a company incorporated under the provisions of Companies Act, 2013 (2013 Act) pursuant to provisions of section 230-232 of the Act.

The Chennai Bench of NCLT had previously held that the legislative intent behind enacting both, the LLP Act and the 2013 Act was to facilitate ease of doing business and create a desirable business atmosphere for companies and LLPs. For this purpose, both the LLP Act and the Act provided for merger or amalgamation of two or more LLPs or companies. The absence of specific enabling provision for merger of an LLP with a company was a clear case of casus omissus (omission in law). Further, since section 234 of the 2013 Act permitted merger of foreign LLP

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with a company, it would be wrong to presume that the 2013 Act prohibited merger of an Indian LLP with an Indian company. There did not seem to be any express statutory bar to prohibit such a merger.

Based on the objections raised in the appeal and arguments placed by the Regional Director, South Zone and the Registrar of Companies, Chennai, the NCLAT observed that even though there is no express enabling provision for merger of LLP into a company directly under the 2013 Act, the legislature has enacted enabling provisions under the 2013 Act for registering the LLP as a company under section 366. This facilitates merger of such LLP registered as a company with another company subsequently. - *[Merger of Real Image LLP, 18th December, 2019 (NCLAT)]*

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## SECURITIES

### 1) SECURITIES AND EXCHANGE BOARD OF INDIA DIRECTED ALL LISTED COMPANIES TO OBTAIN SEBI COMPLAINTS REDRESSAL SYSTEM (SCORES) AUTHENTICATION AND ALSO REDRESS ANY PENDING INVESTOR GRIEVANCES IN THAT PLATFORM

SEBI directed all companies whose securities were listed on stock exchanges to obtain SCORES authentication within a period of 30 days from the date of issue of this circular and also to redress the pending investor grievances within the stipulated time period.

It was alleged that Shalibhadra Infosec Limited (hereinafter, Noticee/Company) had failed to

obtain the SCORES authentication, to redress investor grievances pending therein and to submit the Action Taken Report (hereinafter, ATR) duly supported by documentary evidence in respect of the pending complaints, within the timelines stipulated by SEBI, therefore not complying with the aforesaid SEBI Circulars.

An AO was appointed to enquire into and adjudge under Section 15HB and Section 15C of the SEBI Act, for the aforementioned alleged violations by the Noticee.

A Show Cause Notice (hereinafter, SCN) was issued by the erstwhile Adjudicating Officer to the Noticee under Rule 4 of the Rules, calling it to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Rules, read with Section 15-I of SEBI Act and penalty be not imposed on it under Section 15HB and Section 15C of the SEBI Act for allegedly failing to obtain the SCORES authentication, to redress investor grievances pending therein and to submit the Action Taken Report (hereinafter, ATR) duly supported by documentary evidence in respect of the pending complaints, within the timelines stipulated by SEBI, respectively but the SCN returned undelivered. Subsequently, pursuant to the appointment of the undersigned as the Adjudicating Officer in the matter, the Noticee was granted an opportunity of personal hearing on December 13, 2019 vide Hearing Notice dated November 22, 2019 through newspaper publications on December 08, 2018 in (i) one English daily newspaper and (ii) one Hindi daily newspaper having nationwide circulation and (iii) another in a newspaper having wide circulation published in the language of the region where the Noticee was last known to have

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resided or carried on business or personally worked for gain. However, the Noticee neither appeared for the said hearing nor submitted any reply to the SCN/Hearing Notice. It is pertinent to mention here that vide the aforesaid notice it was clearly indicated that in case of failure to submit reply, the case would be preceded with ex-parte on the basis of the material available on record. – ***[Adjudication order in respect of Shalibhadra Infosec Limited, Dated 30th December, 2019 (SEBI)]***

## **2) SEBI PROPOSES STANDARDISED PRIVATE PLACEMENT MEMORANDUM AND BENCHMARKING FOR AIFS-LEVELLING THE PLAYGROUND**

With a move that will mark a further evolution of the comparatively young alternative investment fund (AIF) industry, the Securities and Exchange Board of India (SEBI) released “Consultation Paper on Introduction of Performance Benchmarking and Standardization of Private Placement Memorandum for Alternative Investment Funds” (Consultation Paper) on 4 December 2019. The primary objective of the Consultation Paper is to bring more uniformity and transparency in the AIF industry. While the Consultation Paper lauds the extraordinary performance of AIFs in the recent past, it also harped upon the need to enhance disclosure standards for AIFs in order to create a conducive investment regime for this asset class.

Accordingly, SEBI has proposed two initiatives to bring about more parity and increased transparency in the AIF industry, i.e. (a)

introduction of minimum benchmarks for disclosure of performance history of AIFs; and (b) standardization of private placement memorandum (PPM) for AIFs.

A three-way approach that may be considered by SEBI in this regard, should be to find the perfect balance between (a) not compromising on the flexibility of the AIF regime wherein lies its beauty and success, (b) establish best practices for the industry to build a solid growth platform for this asset class, and (c) not to get too prescriptive and respect the distinction between a product for retail investors vs. more sophisticated investors expected to participate in the alternative asset class. – ***[SEBI Dated 4th December, 2019]***

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## **COMPETITION**

### **1) CCI NOT TO DIRECT AN INVESTIGATION AGAINST PLAYERS IN THE MARKET FOR TIMESHARE BUSINESS**

The case arose out of allegations that RCI India Private Limited (RCI) had indulged in anticompetitive conduct in the market for timeshare, which refers to a model where persons acquire the right to use real estate properties (owned by timeshare companies) for a specified duration. Such agreements are typically entered into for the operation of campgrounds, vacation records, etc.

The allegations pertained to a tri-partite agreement (Agreement) entered between: (i) Mahindra Holidays Resorts India Limited (Mahindra India); (ii) Covington S.A.R.L. (a

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subsidiary of Mahindra India) (Covington); and (iii) RCI Europe. By virtue of the Agreement, RCI Europe would extend an interest free loan to Covington to facilitate the acquisition of Holiday Club Resorts OY (Holiday Club), a Finnish Company. It was alleged that the agreement created a barrier to entry into the market for timeshare exchange.

The CCI observed that the acquisition of a Holiday Club in Covington did not raise competition concerns in India since Holiday Club did not operate in India and the acquisition took place outside India. Consequently, the CCI noted that the Indian timeshare market would not be impacted. Further, the acquisition did not change the position of Mahindra India as a competitor in the Indian market. In view of the lack of anti-competitive impact, the CCI closed the case. – *[Ms. Vijayachitara Kamalesh vs. RCI India Private Limited, Case no. 29 of 2019, Dated 9th December, 2019 (CCI)]*

## 2) CCI APPROVES ACQUISITION BY CANADA PENSION PLAN'S INVESTMENT ARM OF A MINORITY STAKE IN DELHIVERY PRIVATE LIMITED

Canada Pension Plan Investment Board (CPPIB), a Toronto-based Investment Organisation which invests in public and private equities, and in the real estate and infrastructure sector, received the Competition Commission of India's (CCI) approval for its acquisition of 7.97% shareholding in Delhivery Private Limited (DPL).

DPL provides third party logistics services in India and has a wholly owned subsidiary in the United States which provides last mile delivery

and cross-border logistics solution through the United States Postal Service from India to the United States. The CCI noted that there are no horizontal overlaps between CPPIB and DPL because they are not involved in similar or identical businesses. However, vertical overlaps were noted as CPPIB holds a majority shareholding in Indospace Core, which leases out space in modern commercial warehouses in Chennai, Delhi, Pune and Bengaluru; and DPL provides warehousing services as part of its holistic logistics services. The CCI noticed that third party logistics services are provided by various organised and unorganised players and the total warehousing space taken on lease by DPL was insignificant in relation to the presence of Indospace Core in these cities. Further, Indospace Core's customer base majority consisted of non-logistics players. Accordingly, the CCI observed that the combination was unlikely to raise any competition concern and granted its approval. – *[Combination Registration No. C-2019/05/663, Dated 3rd December, 2019 (CCI)]*

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## INDIRECT TAXES

### a. CUSTOMS

#### 1) AMENDMENT IN CUSTOMS TARIFF

Post amendment in customs tariff, the CBIC has issued notifications amending various Customs tariff notifications so as to align them with amended Customs Tariff. – *[Notification No. 36/2019-Customs; Notification No. 37/2019-Customs; Notification No. 38/2019-Customs; Notification No. 39/2019-Customs; &*

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*Notification No. 40/2019-Customs, all dated 30th December, 2019]*

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

Notification No. 46/2011-Customs dated 01.06.2011 amended 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. 01.01.2020. – *[Notification No. 41/2019 – Customs, dated 31st December, 2019]*

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

Notification No. 53/2011-Customs dated 01st July, 2011 amended 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. 01.01.2020. – *[Notification No. 42/2019 – Customs, dated 31st December, 2019]*

## 4) VIZINJHAM INTERNATIONAL SEAPORT AND MUTHALAPOZHI

Vizinjham International Seaport and Muthalapozhi notified u/s 7(d) of the Customs Act for unloading and loading of boulders for breakwater construction. – *[Notification No. 87/2019- Customs (N.T.), dated 02nd December, 2019]*

## 5) ADD ON CLEAR FLOAT GLASS

Anti-dumping duty imposed on imports of Clear float glass originating in or exported from Pakistan, Saudi Arabia and UAE in pursuance of Final findings of Designated Authority in sunset review of notification No. 48/2014-Customs (ADD) dated 11.12.2014. – *[Notification No. 45/2019-Customs (ADD), dated 10th December, 2019]*

## 6) GENERATION AND QUOTING OF DOCUMENT IDENTIFICATION NUMBER (DIN) ON ANY COMMUNICATION ISSUED BY THE OFFICERS OF THE CBIC TO TAX PAYERS AND OTHER CONCERNED PERSONS IS MANDATORY

The CBIC vide present circular has once again directed that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in paragraph 4 of Circular No. 37/2019 dated 05.11.2019, shall be treated as invalid and shall be deemed to have never been issued provided the omission is not regularized as per the procedure stated in para 5 of the said circular. – *[Circular No. 43/2019-Customs, dated 23rd December, 2019]*

## 7) INTIMATION OF THE NEW OFFICIAL EMAIL ID I.E. INV-CUSTOMS@GOV.IN

the CBIC has received a new email id i.e. inv-customs@gov.in. Henceforth, all incident report and seizure report and all the future correspondence related to office of the Commissioner (Investigation-Customs) is directed to be done on the above email id only. – *[Circular No. 01/2020-Customs, dated 20th December, 2019]*

## b. CENTRAL EXCISE

### 1) AMENDMENT IN FOURTH SCHEDULE OF CENTRAL EXCISE ACT 1944

CBIC has amended Fourth Schedule to the Central Excise Act 1944 so as to substitute tariff items 2710 12 11 to 2710 12 90, sub-heading 2710 19 and tariff items 2710 19 10 to 2710 20 00 and the entries relating thereto and add a new SUPPLEMENTARY NOTES to Fourth Schedule, in Chapter 27. – *[Notification No. 08/2019-Central Excise (T.), dated 31st December, 2019]*

Further, Notification No. 11/2017-Central Excise dated 30-06-2017 has been amended so as to align it with amended Fourth Schedule to Central Excise Act. – *[Notification No. 9/2019-Central Excise, dated 31st December, 2019]*

### 2) SVLDRS, 2019 EXTENDED TO THE SPECIFIED ENACTMENTS

The CBIC has specified the following enactments to which the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 shall be applicable, namely:-

(i) Cine-Workers Welfare Cess Act, 1981(30 of 1981); (ii) Industries(Development and Regulation) Act, 1951 (65 of 1951); (iii) Sugar Export Promotion Act, 1958 (30 of 1958); (iv) Sugar (Regulation of Production) Act, 1961 (55 of 1961); (v) Tea Act, 1953 (29 of 1953); (vi) Finance Act, 2001 (14 of 2001); (vii) Finance Act, 2005 (18 of 2005); (viii) Finance Act, 2010 (14 of 2010) – *[Notification No. 06/2019 Central Excise (N.T.), dated 04th December, 2019]*

## c. GST

### 1) CENTRAL GOODS AND SERVICES TAX (EIGHTH AMENDMENT) RULES, 2019

The CBIC has notified the Central Goods and Services Tax (Eighth Amendment) Rules, 2019 so as to carry out changes in the CGST Rules, 2017 by inserting new sub-rules from (4) to (6) under Rule 48 relating to e-invoice. – *[Notification No. 68/2019 – Central Tax, dated 13th December, 2019]*

### 2) COMMON PORTAL FOR THE PURPOSE OF E-INVOICE

The CBIC vide present notification has notified the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of sub-rule(4) of rule 48 of the CGST rules. – *[Notification No. 69/2019 – Central Tax, dated 13th December, 2019]*

### 3) NOTIFICATION OF CLASS OF REGISTERED PERSON REQUIRED TO ISSUE E-INVOICE

The CBIC has notified that, w.e.f 01st April, 2020, the registered person, whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person. – *[Notification No. 70/2019 – Central Tax, dated 13th December, 2019]*

## 4) RULE 46 OF THE CGST RULES, 2017

The CBIC has nominated 01st April, 2020 as the date from which the provisions of rule 46 of the CGST Rules, 2017 shall come into force. – **[Notification No. 71/2019 – Central Tax, dated 13th December, 2019]**

## 5) NOTIFICATION OF CLASS OF REGISTERED PERSON REQUIRED TO ISSUE INVOICE HAVING QR CODE

The CBIC has notified that, w.e.f 01st April, 2020, an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees, to an unregistered person (B2C invoice), shall have Quick Response (QR) code:

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code. – **[Notification No. 72/2019 – Central Tax, dated 13th December, 2019]**

## 6) NOTIFICATIONS AFTER RECOMMENDATIONS OF THE GST COUNCIL IN ITS 38TH MEETING

- i. Notification No. 01/2017-Central Tax (Rate) amended so as to change the rate of GST on goods as per recommendations of the GST Council in its 38th Meeting. – **[Notification No.27/2019-Central Tax (Rate), dated 30th December, 2019]**
- ii. Notification No. 12/ 2017- Central Tax (Rate) amended so as to exempt certain services as

recommended by GST Council in its 38th meeting. – **[Notification No.28/2019-Central Tax (Rate), dated 31st December, 2019]**

- iii. Notification No. 13/ 2017- Central Tax (Rate) amended so as to notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 38th meeting. – **[Notification No.29/2019-Central Tax (Rate), dated 31st December, 2019]**

Similar notifications have been issued under the Integrated Tax (Rate) and Union Territory Tax (Rate).

## 7) WITHDRAWAL OF CIRCULAR NO. 107/26/2019-GST DT. 18.07.2019

In view of the apprehensions on the implications and to ensure uniformity in the implementation of the provisions of the law across field formations, the CBIC, has withdrawn ab-initio, Circular No. 107/26/2019-GST dated 18.07.2019 wherein certain clarifications were given in relation to various doubts related to supply of Information Technology enabled Services (ITeS services) under GST. – **[Circular No. 127/46/2019 – GST, dated 04th December, 2019]**

## 8) STANDARD OPERATING PROCEDURE IN CASE OF NON-FILERS OF RETURNS

Since there is a lack of clarity on how to proceed with non-filers and lack of uniformity in procedures, the CBIC vide present circular prescribes standard operating procedure to be followed in case of non-filers of returns. Highlights of the Circular are as follows:

- A system generated message would be sent to all the registered persons 3 days before the due date to remind them about filing of the return for the tax period by the due date.

- Once the due date for furnishing GSTR-3B return is over, a system generated mail / message would be sent to all the defaulters (authorized signatory as well as the director in case of company) immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period.

- 5 days later a notice will be issued asking the GST payer to file the return or make payment within 15 days this notice is to be issued in Form GSTR 3A.

- If the defaulter does not file the return within 15 days of the issue of the notice, the proper officer may proceed to assess the tax liability of the person to the best of his judgment taking into account all the material available or which he has gathered and would issue order under Rule 100 of the CGST Rules in Form GST ASMT-13.

- In case the defaulter furnishes a valid return within thirty days of the service of assessment order in FORM GST ASMT-13, the said assessment order shall be deemed to have been withdrawn.

- The proper officer would initiate action for cancellation of registration in cases where the return has not been furnished for the period.

- The Act clearly states that registration will not be cancelled without giving the person an opportunity of being heard. – **[Circular No. 129/48/2019 – GST, dated 24th December, 2019]**

## 9) CLARIFICATIONS REGARDING RCM ON RENTING OF MOTOR VEHICLES

The CBIC vide present circular has clarified that a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non-body corporate clients, to bring in greater clarity, serial No. 15 of the Notification No. 13/2017-CT (R) dated 28.6.17 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfills all the following conditions:–

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @12% from the service recipient; and
- (c) supplies the service to a body corporate. – **[Circular No. 130/2019 – GST, dated 31st December, 2019]**

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## INTELLECTUAL PROPERTY RIGHTS

### 1) THERE IS NO AUTHORITY OR AT LEAST NO AUTHORITY WAS SHOWN TO US, WHICH LAID DOWN THAT GOD'S NAME WAS NOT REGISTRABLE AS A TRADEMARK. – CALCUTTA HIGH COURT

The dispute between the Parties arose on account of the Respondents' alleged infringement and passing off of the Appellant's mark "SHYAM". The Single Judge however, noted that that the Respondents could not be restrained from using the mark as it was a part of their business name. The Court noted that the Parties use the mark "SHYAM" on their goods and also on its

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packaging. The respondent has taken various points in defence. The first and foremost point is that 'Shyam' is another name of Lord Krishna. No exclusive right can be claimed by anybody over this mark. The Court rejected this argument of the Respondents, and stated that there is no authority or at least no authority was shown to us, which laid down that God's name was not registrable as a trademark. The Respondents had to prove this claim through cogent evidence. Moreover, the Court noted that the Respondents had failed to furnish any documents to show its mark being senior to the Appellant's mark or depicting sales under its mark. The Court noted that there was no acquiescence on part of the Appellant but merely a delay in filing in petition. Accordingly, the Court granted an interim injunction in favour of the Appellant. – *[Shyam Steel Industries Limited vs Shyam Sel And Power Limited & Anr., dated 24th December, 2019 (Calcutta HC)]*

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## CONSUMER

### 1) STATE COMMISSION CLOSED THE RIGHT OF THE OPPOSITE PARTIES TO FILE A WRITTEN STATEMENT

The State Commission has closed the right of the Opposite Parties to file written version. In the interest of justice, and for holistic and comprehensive adjudication of the case on merit in the forum of original jurisdiction, the impugned Order of the State Commission is set aside. The Appellants – Opposite Parties are allowed one (more) opportunity to file their

written version before the State Commission within 30 days from today, subject to suitable/just terms/cost of Rs. 50,000/- to be paid by the Appellants - Opposite Parties to the Respondent No. 1 - Complainant No. 1 directly in his name by way of 'payee's a/c only' demand draft within the same period of 30 days from today. The Appellants - Opposite Parties are sternly advised to conduct their case professionally before the State Commission. All parties are directed to appear before the State Commission and the next date is fixed before the State Commission. The State Commission is requested to take the written version of the Opposite Parties on record, if duly filed within the period stipulated above, subject to the above-mentioned cost being duly paid within the period stipulated above, to give opportunity to the Complainants to file their rejoinder thereto, and to proceed further with the adjudication of the case in the normal wont as per the law. The Registry is directed to send a copy of this Order to the State Commission within three days. - *[M/S. Shree Vardhman Developers Pvt. Ltd. & Ors. V. Rajeev Dahiya & ANR, Dated 4TH December, 2019 (NCDRC)]*

### 2) THE RIGHTS OF THE RESPONDENT/COMPLAINANT SHALL IN NO WAY PREJUDICE OR IMPEDE TO PRESS EXECUTION FOR ENFORCEMENT AND PENALTIES UNDER THE CONSUMER PROTECTION ACT

During the course of his submissions in furtherance to the directions contained in the previous Order, learned counsel for the appellant

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builder co. requested for a brief interlude to seek instructions.

After seeking instructions, learned counsel for the appellant builder co. submits that, on instructions obtained from the level of Mr. Rajiv Jain, Director of the appellant builder co., the appellant builder co. wishes to unconditionally withdraw its instant appeal no. 1642 of 2019.

Learned counsel for the appellant builder co. further submits, on instructions obtained from the level of Mr. Rajiv Jain, Director of the appellant builder co., that the awards made by the State Commission will be complied with in its entirety within a period of eight weeks from today, without fail.

It is directed that the latter submission, shall in no way prejudice or impede the right of the respondent / complainant to press execution, both for 'Enforcement' under section 25(3) and for 'Penalties' under section 27(1) of the Act 1986. The State Commission shall forthwith undertake execution as per the law for compliance of its Order.

Having regard to the submission recorded above, the instant appeal is dismissed as withdrawn without the option to file it again before this Commission. - *[Parsvnath Developers Limited v. Rohit Kumar Singh, Dated 13th December, 2019 (NCDRC)]*

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## ENVIRONMENT

### 1) SC TO DEVELOPER: PAY RS 1 CRORE FOR DAMAGE TO ENVIRONMENT

The Supreme Court has upheld an order of the NGT which had directed Rustomjee Developers to deposit Rs 1 crore "towards interim cost of damage to the environment" for its residential project in Bandra (east). The SC dismissed the developer's appeal against one of the orders of the NGT which had held an 'expansion' of the project lacked the requisite green nod. The project has been completed. – *[The Times of India, dated 04th December, 2019]*

### 2) FINALISE DRAFT GUIDELINES FOR REGULATING BANQUETS: NGT

The NGT has directed the Central pollution Control Board (CPCB) to finalise draft guidelines on regulation of banquets and marriage halls within a month. It also asked state pollution control boards (SPCBs), in consultation and coordination with concerned state authorities, to adopt the guidelines with necessary modifications but without diluting its essence. – *[The Times of India, dated 21st December, 2019]*

### 3) SHIPS ENTERING INDIAN WATERS SUBJECTED TO ENVIRONMENTAL LAWS, NGT

There is lack of effective monitoring of air pollution caused by ships entering Indian Maritime Zone, the NGT has observed and said that vessels entering Indian waters are subject to environmental laws. NGT held that all the vessels, Indian and Foreign, entering into Indian Maritime Zone are subject to relevant provisions of the Environment (Protection) Act, 1986, Air (Prevention and Control of Pollution) Act, 1981, as well as rules framed thereunder until

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comprehensive Indian merchant shipping rules  
come into force. – *[The Times of India, dated  
20th December, 2019]*

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