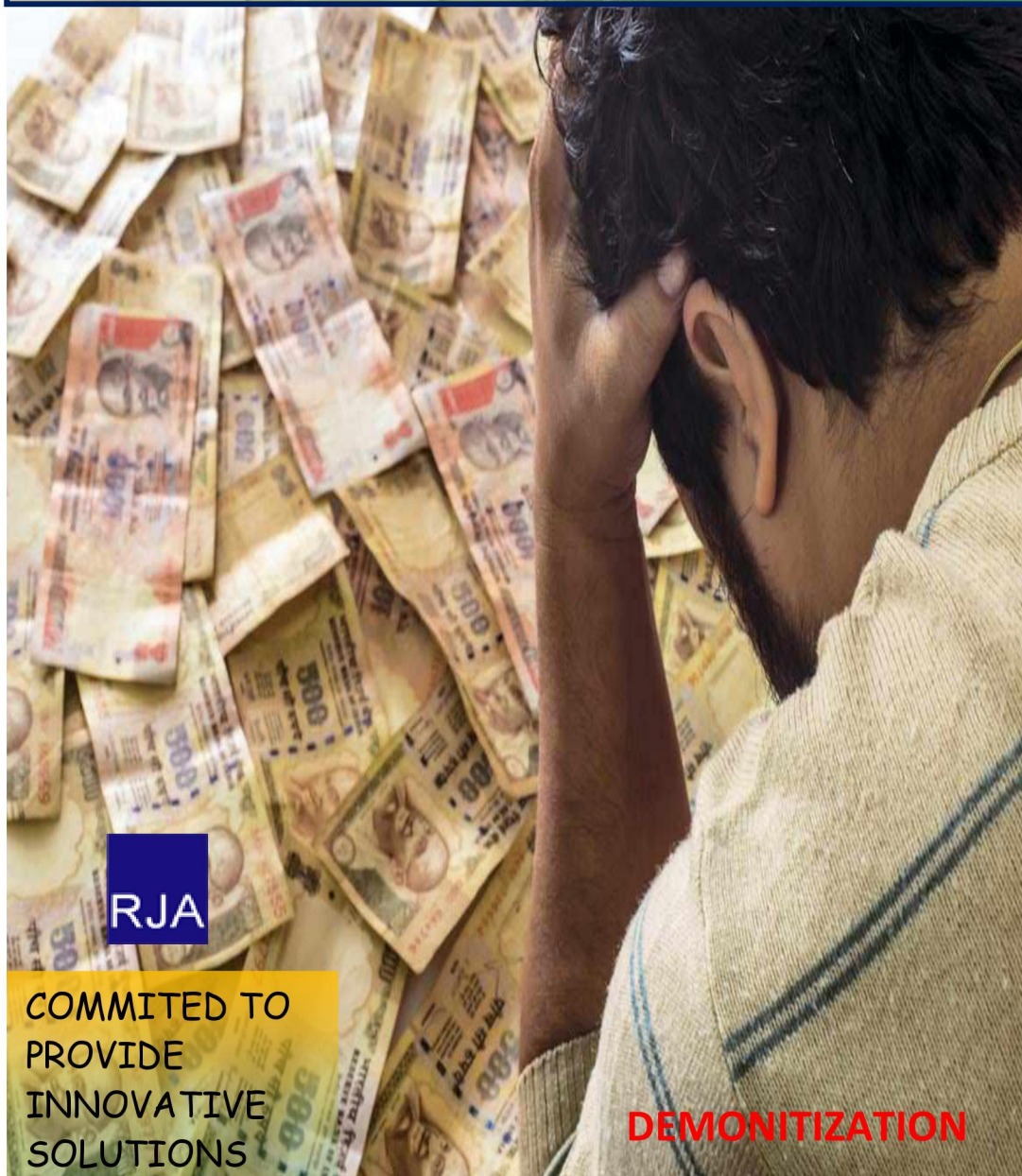


# Tax & Corporate law Bulletin

RJA

**RAJPUT JAIN & ASSOCIATES**  
**CHARTERED ACCOUNTANTS**

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**DECEMBER 2016**

## **From the Editor's Desk...**

**Dear Reader,**

Greetings for the season,

No Reopening for mere increase in Turnover due to demonetization; Penalty only on Disproved claim of expenditure & not unproved; Relaxation of additional fees and extension in last date of filing e-Forms; SEBI withdraws margin benefit on spread positions and read many more....

We eagerly await your feedback on the bulletin.

Yours truly,

**Rajput Jain & associates**  
**Chartered accountants**

**For further details,  
Please contact....**

**CA. Swatantra Singh**

[singh.swatantra@carajput.com](mailto:singh.swatantra@carajput.com)

**CA. Sushil Singh**

[sks\\_978@carajput.com](mailto:sks_978@carajput.com)

**CA. Navneet Gupta**

[info@carajput.com](mailto:info@carajput.com)

**CA. Manoj Kumar Singh**

[support@carajput.com](mailto:support@carajput.com)



Your partners  
**for success**

*Individually, we are one Drop; Together we are an Ocean*

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“Adapting swiftly to the  
global business environment”



## DIRECT TAX



### ➤ Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (the Scheme)

The Taxation Laws (Second Amendment) Bill, 2016, passed by Lok Sabha on 29.11.2016, inter alia seeks to introduce the, 'Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (the Scheme)'. A declarant under the Scheme shall be required to pay tax @ 30% of undisclosed income, surcharge @ 33% of tax and penalty @ 10% of undisclosed income. The declarant shall also be required to deposit an amount, which shall not be less than twenty-five per cent of the undisclosed income in, the 'Pradhan Mantri Garib Kalyan Deposit Scheme, 2016'. Such deposit shall carry no interest and have a locking period of four years.

The Scheme does not provide any immunity to the declarant in respect of detention made under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, the Prohibition of Benami Property Transactions Act, 1988, the Prevention of Money-Laundering Act, 2002, the Special Court Act, 1992, and the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

A declaration in respect of any income, in the form of cash or deposit in an account maintained by the person with a specified entity, chargeable to tax under the Income-tax Act for any assessment year

commencing on or before the 1st day of April, 2017, can be made under the Scheme

### ➤ Section 143 of the Income Tax Act, 1961 – Assessment – Prima facie adjustments – Processing of returns in Form ITR-1 under section 143(1) – Applicability of Section 143(1)(a)(vi)

The section 143(1) (a) (vi) of the Income Tax Act w.e.f. 01/04/2017 prescribes that while processing the return of income, the total income or loss shall be computed after making adjustment of addition of income appearing in Form 26AS or Form 16A or Form 16 (the three forms) which has not been included in computing the total income in the return. In this regard, the doubts have arisen while processing income tax return filed in ITR 1 regarding the nature, extent and scope of comparison of information as contained in return of income with the three forms which might lead to issuance of intimation proposing adjustment to the returned income.

### ➤ Jurisdiction of income-tax authorities under Pradhan Mantri Garib Kalyan Deposit Scheme, 2016

In exercise of the powers conferred by section 199G of the Finance Act, 2016 (28 of 2016), the Central Government hereby-

(i) notifies the Principal Commissioner or the Commissioner, as the case may be, who exercises the jurisdiction under section 120 of the Income-tax Act, 1961 (43 of 1961), as the Principal Commissioner or the Commissioner for the purposes of declaration filed manually or electronically under electronic verification code under sub-section (1) of section 199C of the Finance Act, 2016 (28 of 2016); and

(ii) notifies the Principal Commissioner or the Commissioner, as the case may be, who exercises the jurisdiction under section 120 of the Income-tax Act, 1961 (43 of 1961) or the Commissioner of Income-tax, Centralised Processing Centre, Bengaluru, as the Principal Commissioner or Commissioner, for the purposes of declaration filed electronically with digital signature under sub-section (1) of section 199C of the Finance Act, 2016



➤ **No Reopening for mere increase in Turnover due to demonetization**

9th of December, 2016 clarified that Mere increase in turnover, because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years.

Reacting on Circular VikasVasal, Partner, Grant Thornton India LLP said that “Post demonization, the government has taken many pro-active measures to encourage businesses and people to adapt non-cash modes for transacting business. This notification is quite timely and clarifies that increase in turnover due to use of digital modes of transactions, will not be used as the sole criterion by the tax authorities to assess whether any income has escaped tax in the past years. This would allay fear of small and medium businesses that if their turnover for the current year is higher in comparison to earlier years, then their tax returns for the past years can be automatically re-examined.”

➤ **Registration & Submission of Form V under PMGK Deposit Scheme**

In exercise of the powers conferred by Subsection (c) of Section 199B of the Finance Act, 2016 (28 of 2016), the Central Government in consultation with the Reserve Bank of India notified the Pradhan Mantri Garib Kalyan Deposit Scheme (PMGK), 2016.

As per para 7(2) of the PMGK deposit Scheme, 2016, the Authorised banks are required to furnish electronically the details of deposits made under PMGK in Form V not later than next working day to enable the Department to verify the information of the deposit before accepting the declaration.

The following procedure shall be followed by the Authorised banks for furnishing the PMGK deposit details.

(a) Registration and generation of Income Tax Department Registered Entity Identification Number (ITDREIN): The Authorised bank is required to get registered with the Income Tax Department by logging in to the e-filing website (<http://incometaxindiaefiling.gov.in/>) with the log in ID (PAN). A link to register Authorised bank has been provided under “My Account>Manage ITDREIN”. Once ITDREIN is

generated, the Authorised bank will receive a confirmation e-mail on the registered e-mail ID and SMS at registered mobile. There will be no option to de-activate ITDREIN, once ITDREIN is created.

(b) Registration of designated director and principal officer: After generating ITDREIN, the Authorised bank will be required to submit the details of designated director and principal officer. The designated director and principal officer will receive a confirmation e-mail with an activation link. An SMS along with OTP (One time Password) will also be sent to the registered Mobile Number. For completion of registration, the designated director and principal officer should click on the Activation link, enter the Mobile PIN(OTP), Password and Confirm Password and click on Activate Button. On success, the registration will be complete.

(c) Preparation of Form V (PMGK Deposit Scheme) data file: Every Authorised bank is required to submit the PMGK deposit details in Form V. The prescribed schema for Form V and a utility to prepare XML file can be downloaded from the e-filing portal home page under Forms (other than ITR) tab. The filer can also refer to the User Manual for ITDREIN Registration and Upload of Form V.

(d) Submission of Form V (PMGK Deposit Scheme): The designated director is required to login to the e-filing portal with the ITDREIN, PAN (of the designated director) and The form is required to be submitted using a Digital Signature Certificate of the designated director.

## RECENT JUDGEMENTS



➤ **Penalty only on Disproved claim of expenditure & not unproved**



***Arun Duggal Vs. DCIT (ITAT Delhi)***

Hon'ble Delhi ITAT in the case of ArunDuggal,v/s DCIT in ITA No.740/Del/2014 has held that Penalty can be imposed only on disproved claim of expenditure and not unproved claim of expenditure.

At the most, the assessee's claim of deduction can be considered as unproved claim and not a disproved claim of expenditure. The Hon'ble Gujarat High Court in National Textiles vs. CIT (2001) 249 ITR 125 (Guj.), has held that in order to justify levy of penalty for addition of cash credits, the explanation tendered by the assessee must be disproved. Deleting the penalty so imposed, the Hon'ble High court held that it was not a case of imposition of penalty. The Hon'ble Calcutta High Court in Durga Kamal Rice Mills vs. CIT (2004) 265 ITR 25 (Cal), relying on National Textiles 249 ITR 125 (Guj), has held that there is a difference in 'Facts not proved' and 'Facts disproved'. It further held that penalty can be levied only for the latter. Similar view has been taken in CIT vs. VidyagauriNatvarlal&Ors (1999) 153 CTR (Guj) 546. 6. In the light of the foregoing precedents, we are satisfied that it is not a case warranting any imposition of penalty u/s 271(1)(c). We, therefore, set aside the impugned order and order for the deletion of penalty"

➤ **50B Distribution of net assets upon dissolution of firm not slump sale**

***VatsalaShenoy vs. JCIT [2016] (SC).***

Sale could be treated as slump sale only if there was no value assigned to the individual assets and liabilities during sale. In the instant case partnership firm was dissolved and other partners carried business as AOP. Subsequently assets were taken over. During the course of takeover it was observed that not only value was assigned to individual assets, even the liabilities were taken care of when the amount of sale was apportioned among the outgoing partners. The Official Liquidator has distributed the amount among the nine partners, including the assessee after deducting the liability

of each of the partners and hence it was observed that the amount received by them is the value of net asset of the firm which would attract capital gain and such transaction is not slump sale

➤ **No disallowance when assessee has claimed NIL expenditure**

***SheetalRanwala vs. ACIT I.T.A. No. 20/Mum/2015, AY 2010-11 dated 20/10/2016.***

The question of apportionment of expenses between taxable income and exempt income would arise only if any expenditure is claimed by the assessee. It was observed that the view taken by the learned CIT(A) that the provisions of Rule 8D provide for "deemed disallowance" is not acceptable. It is also observed that it is well established proposition now that the assessing officer can resort to compute disallowance under Rule 8D only if he is not satisfied with the computation made by the assessee having regard to the accounts of the assessee. Since the assessee has not claimed any expenditure, ITAT has held that, no disallowance u/s. 14A can be made

➤ **Deemed provisions not applicable when asset introduced by partner is current asset**

***ITO vs. Orchid GrihaNirman (P.)Ltd. [2016] (Kolkata-Trib.).***

The land was brought in by the partners as inventory/current assets does not in any way alter the fact that the partners had in fact brought in the land into the partnership business as their capital contribution. It is not a requirement that an asset brought in by a partner by way of capital contribution must be a fixed asset or that a current asset cannot be brought in by a partner as his capital contribution. The books of account of the said firm for the financial year ended March 31, 2006 clearly reflected the receipt of the said land by it by way of capital contribution from three of its partners as also the value thereof with corresponding credit to the partners' capital accounts. The land upon purchase was shown by the said three companies as part of their current assets. The said firm upon receipt of the



said land during the financial year ended March 31, 2006 also accounted for it as a current asset. The partners transferred the said land at cost. As such, there was no profit in the hands of the partners upon transfer of the said land to the said firm. Section 45(3) of the Act is applicable only in respect of a capital asset and has no application in case asset transferred by the partners was a current asset and not a capital asset. Section 45(3) of the Act did not come into operation for the assessment year 2008-09 by reason of conversion of the developed land and building into fixed assets by the said firm or due to revaluation by the said firm of the asset so converted during the previous year ended March 31, 2008. Section 45(3) of the Act is applicable in the year of transfer by the partner of his capital asset to the partnership firm by way of capital contribution. In the instant case, the year of transfer was the financial year ended March 31, 2006. Even otherwise, section 45(3) seeks to determine the capital gains with reference to the value of the asset recorded in the books of account of the firm. The value so recorded is statutorily deemed to be the full value of consideration received or accruing to the partner as a result of the transfer of the capital asset to the firm. Thus, section 45(3) does not seek to substitute by any other figure the value agreed between the partners at which the asset is transferred by a partner to the firm

- **No interest to be granted during the period in which defect in TDS certificate was to be cured**

*State Bank of Travancore vs. CCIT [2016]*  
(Kerala)

There cannot be any dispute about the fact that the obligation to provide a certificate for deducting tax is on the deductor. If there is any defect in such certificate, and the deductee fails to get it cured before filing of the return, deductee can be termed as a person who had caused the delay. Accordingly considering provisions of section 244A(2) which provides that interest is not payable, if the proceedings of refund is delayed for reasons attributable to the assessee, it was held that assessee was not entitled for the interest on refund during the period in which defect in TDS certificate was to be cured .

- **Compounding of offence even when conviction order is passed**

***V. A. Haseeb and Co. (Firm) vs. CCIT (TDS) Writ  
Petition No. 32731 of 2015 (Madras) Order dated  
2/9/2016***

Authority engaged in compounding of offence need not be influenced by the fact that the conviction order has been passed against the petitioner by the Criminal Court. They have to examine the matter afresh without being, in any manner, influenced by the conviction order.

- ## ➤ 119 Condonation of delay on filing of return of Income

*CBDT vs. Regen Infrastructure & Services (P.) Ltd.*  
[2016] 75 taxmann.com 135 (Madras).

For the Assessment Year 2010-11, the assessee has uploaded its return of income sometime immediately past midnight of 15/10/2010, that was treated as belated filing beyond the permissible time. When once an authority has been conferred discretion to condone the delay, application seeking condonation of delay of one day cannot be rejected for such reasons as are assigned by the Board in its order dated 5/5/2014. Accordingly it was held that the Board has not exercised its discretion properly in the matter and in keeping with the legal principles relevant for such consideration

## INDIRECT TAX

### SERVICES TAX



- Consulting or engineering services



***National Environment Engg. Research Inst. vs. CCE& CST (2015) 40 STR 1115.***

Where the revenue had sought to demand service tax on the projects undertaken by the appellant relating to Environmental Biotechnology, Environment Impact Assessment, Environmental Monitoring, Environmental Policy Analysis, Hazardous waste Management under the category 'Consulting Engineer' service the Tribunal held that determining the tax liability by linking the title of the project with the description as appearing in Wikipedia (unauthenticated source) without examining specifics of the project is inappropriate and on facts the appellant's services in respect of the said projects are not in the nature of consulting engineering services

➤ **Advertising Agency services**

***Grey Worldwide (India) Pvt. Ltd. vs. CST (2015) 40 STR 1104 (Tri-Mum.)***

Where the appellant an advertising agency undertaking outdoor advertising campaign outside India for Ministry of Tourism, Govt. of India, service tax was not leviable on the media cost under the category of 'advertising agency services' since the same was incurred beyond the territorial waters of India .

➤ **Banking and Other Financial Services**

***Bank of Baroda vs. Commissioner of Service Tax, Mumbai (40) STR 1069 (Tri-Mum.).***

Interest not payable for extended period if no intention to evade tax even if tax paid and not contested on ground of limitation

➤ **Penalty**

***Omkar Agencies (Hutch) vs. CCE (2015) 40 STR 1135 (Tri- Del.)***

Where, the revenue had sought to impose penalty u/s. 76 read with Rule 15(1) of CCR for wrong availment of input credit the Tribunal held that penalty u/s. 76 can be levied only where service tax is held to be payable by the assessee in accordance with provisions of section 68 or the rules made

thereunder. As the issue involved incorrect availment of Cenvat Credit and not non-payment of service tax in accordance with section 68 no penalty u/s. 76 was imposable but penalty of ` 2,000/- u/r. 15(3) of the Cenvat Credit Rules, 2004 was held to be imposable.

➤ **Passenger Transportation Services**

***Kingfisher Airlines Ltd vs. Commissioner of Service Tax, Mumbai-1 (40) STR 1159 (Tri-Mum.)***

Carrying of passenger baggages by appellant airline is liable for service tax under the category of transportation of passenger by air services since the same is an integral part of transportation of passenger by air services in view of section 65A of the Act.

Further on facts there was no separate contract for transportation of excess baggage. Hence demand of service tax under the category of transportation of goods by air service was not sustainable

➤ **valuation**

***CCE vs. DeoramVishrambhai Patel (2015)***

Whether on facts the assessee and his brothers had jointly rented out an immovable property and the lease agreements entered into by them were in their individual capacity, the Tribunal held co-owners of the property cannot be considered as association of persons liable for service tax jointly or severally and the denial of benefit of threshold exemption under notification no 6/2005 to each individual was held to be incorrect.

➤ **Limitation/Refund**

***Alar Infrastructures Pvt. Ltd. vs. CCE 2015(40) STR 1066 (Del.)***

The question of refund application being barred by limitation would arise only if there is a conclusion to the fact that services rendered by the appellant are amenable to service tax.



Consequently, if the services are not liable for service tax, rejection of refund claims on the grounds of being barred by limitation is incorrect .

## CORPORATE LAW



### ➤ Relaxation of additional fees and extension in last date of filing e-Forms

MCA has extended the due date of filing of e-forms AOC-4, AOC-4 (XBRL), AOC-4 (CFS) and MGT-7 till 29th November 2016. No additional fees would be payable for such extended filing. For complete text of the circular,

### ➤ Removal of names of companies from the Register of Companies — clarification regarding availability of Form STK on MCA-21 portal.

This Ministry has commenced provisions of sections 248 to 252 of the Companies Act, 2013 w.r.t. removal of names of companies from the Register of Companies today and notified relevant rules simultaneously. However, e-Form STK — 2 prescribed under the said rules, for making application to the Registrar of Companies for removal of name of the company from the register of companies, is under development and would be deployed in some time.

Stakeholders are requested to bear with the inconvenience caused in this regard

### ➤ Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under

### the Companies Act, 2013- State of Jammu and Kashmir

In continuation of this Ministry's General Circular 12/2016 dated 27.10.2016, keeping in view the requests received from various stakeholders stating that due to curfew/strikes and disturbances from past more than four months in the State of Jammu and Kashmir and the resultant difficulty expressed by various stakeholders in convening meetings in a timely manner, it has been decided to relax the additional fees payable by the companies having registered offices in the State of Jammu and Kashmir on e-forms AOC-4, AOC (CFS), AOC-4 XBRL and e- Form MGT-7 upto 31.12.2016, wherever additional fee is applicable.

### ➤ Clarification Regarding Filing of Offline Challans with IEPF Authority under Companies Act

In accordance with Investor Education & Protection Fund (Accounting, Audit, Transfer, and Refund) Rules, 2016, notified on 05.09.2016, it is mandatory for the companies depositing amounts to IEPF under section 125 of the Companies Act, 2013 to :-

(i) generate challan online only

(ii) file form IEPF-1 mentioning the SRN No. of challan (online mode only).

All companies transferring the amount to IEPF are, therefore requested to ensure that the above procedure is followed. The challans not generated on MCA-21 portal will not be accepted after 15.12.2016.

This issues with the approval of the Competent Authority.

### ➤ Companies (Incorporation) Fifth Amendment Rules, 2016.

Vide the Companies (Incorporation) Amendment Fifth Rules, 2016 dated 29th December 2016, INC-2 is deprecated and INC-7 shall be used for incorporating Part I Companies and companies with more than seven subscribers only. The revised INC-7 shall be made available on the portal for filing purposes w.e.f 15th January 2017. For incorporating



OPCs and Companies (with up to seven subscribers), only SPICe (INC-32) should be used henceforth. The filing fee for SPICe has also been reduced from Rs.2000 to Rs.500 and number of resubmissions from three to two. Stakeholders may kindly note that existing INC-2 and INC-7 eforms are likely to be withdrawn from the MCA portal shortly. Stakeholders will then have to use only SPICe (Simplified Proforma for Incorporating a Company electronically) forms viz. SPICe (INC-32), SPICeeMoA (INC-33) and SPICeeAoA (INC-34) for incorporation of all companies including Section 8 Companies (except Part I companies, a company having more than 7 subscribers/promoters, or foreign national subscribers not having a valid DIN).

A revised version of INC-7 shall be made available a few days after the discontinuation of the existing version of INC-7 which shall be applicable only for Part I companies, a company having more than 7 subscribers/promoters, or foreign national subscribers not having a valid DIN. During the intervening period a separate process will be specified for incorporation of such companies. Stakeholders who have already filed INC-2 or INC-7 prior to the notification of this change would be able to resubmit previous versions of these forms (if required), within a stipulated time period. The effective date of these changes will be published on the MCA portal. All Stakeholders are requested to make note of the upcoming changes, and are advised to use only SPICeeform henceforth for any new filings, so as not to face any inconvenience at a later date due to withdrawal of INC2 and INC7 eforms.

#### ➤ **Standing Committee submits report on the Companies (Amendment) Bill, 2016**

The Standing Committee on Finance (Chair: MrVeerappaMoily) submitted its report on the Companies (Amendment) Bill, 2016. The Bill was introduced in Lok Sabha in March 2016. It seeks to amend the Companies Act, 2013, which regulates the incorporation, management, and functioning of companies.

Key recommendations of the report include:

**Objects clause:** Currently, the Act requires that the Memorandum of Association of a company to state the objects behind incorporating a company. The Bill removes this requirement, and only requires companies to state that it will engage in lawful activities or businesses. The Committee was of the opinion that the proposed amendment may lead to the creation of bogus entities. Further, specifying the objects clause at the time of incorporation is not a complex issue, as the creation of company should be for a specific business activity to attract investors. The Committee recommended that status quo be restored.

**Compliance requirements:**

The Act has various compliance requirements for companies such as a minimum number of members in the Board. These requirements vary based on whether the company is public or private.

The Committee noted that the compliance requirements may be determined based on the business volume of the company, instead of the nature of the company (public or private).

**Managerial remuneration:** Under the Act, if remuneration of management level employees of a company exceeds prescribed limits, the approval of the central government must be obtained. The Bill seeks to omit this requirement.

The Committee endorsed the proposed amendment. However, it noted that the government should bear some element of control.

This should be done by the government retaining the right to seek necessary information of managerial remuneration of listed companies and companies operating with public funds.

**Harmonization between SEBI and the Act:** The Committee noted that certain provisions of the Act have differences with the regulations of the Securities and Exchange Board of India (SEBI). Such differences have led to practical difficulties in following compliance requirements.

Some examples include variations in provisions related to independent directors and related party



transactions. The Committee noted that such provisions should be harmonized with SEBI's regulations to avoid confusion

## SEBI



भारतीय प्रतिभूति और विनिमय बोर्ड  
 Securities and Exchange Board of India

### ➤ Disclosure of Financial information to Stock Exchanges by REITs

Regulation 23 of the SEBI (Real Estate Investment Trusts) Regulations, 2014 ('the REIT Regulations') prescribe disclosures to be made by a REIT to the Stock Exchange(s) where its units are listed. The said disclosures, inter-alia, include disclosures for financial as well as non-financial information.

With reference to the aforesaid Regulations, the requirements for disclosure of financial information and pertinent compliances on continuous basis are placed at 'Annexure – A', and the requirements for disclosure of non-financial information and pertinent compliances on continuous basis are placed at 'Annexure – B'.

### ➤ SEBI withdraws margin benefit on spread positions

"Additional risk management norms for National Commodity Derivatives Exchanges" had inter-alia prescribed that margin benefit on spread positions shall be entirely withdrawn latest by the start of the tender period or Expiry-6th day, whichever is earlier.

After examination of the various representations received in this regard, it has been decided that margin benefit on spread positions shall be entirely withdrawn latest by the start of tender period or the start of the expiry day, whichever is earlier.

The exchanges are advised to bring the provisions of this circular to the notice of their members and also to disseminate the same on their

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

## RBI



### ➤ Cash withdrawal from ATMs – Enhancement of daily limits

On a review of the position, the daily limit of withdrawal from ATMs has been increased (within the overall weekly limits specified) with effect from January 01, 2017, from the existing - 2500/- to 4500/- per day per card. There is no change in weekly withdrawal limits. Such disbursements should predominantly be in the denomination of - 500.

### ➤ Procedural Guidelines for Servicing the Sovereign Gold Bonds

The Sovereign Gold Bond Scheme was launched by Government of India (GOI) on October 30, 2015. The Sovereign Gold Bonds (henceforth referred to as bonds) are issued by GOI in the form of Government of India Stock in accordance with Section 3 of the Government Securities Act, 2006 (GS Act 2006) and administered by the Reserve Bank of India. So far, six tranches of the Sovereign Gold Bond Scheme have been issued. Following notification of each tranche by GOI, operational instructions are issued by the Reserve Bank of India to the "Receiving Offices", for processing the applications.

From the experience of issuance of the bonds so far, and in the interest of operational flexibility and ease in servicing the customers, it has been decided to issue Procedural Guidelines to the "Receiving Offices" (in case of bonds held in the form of stock



certificates in RBI's books) and Depositories/Depository Participants (in case of dematerialized bonds), in addition to entrusting them with the responsibility of performing certain functions relating to servicing of the bonds.

The Procedural Guidelines are given in Annex I. The Guidelines are issued in exercise of the powers conferred under Section 29(2) of the GS Act 2006, to the Receiving Offices, Depositories/Depository Participants, as directions to persons dealing in government securities, to facilitate servicing of the bonds issued under the various Sovereign Gold Bond schemes. Any non-compliance shall invite penal provisions under Section 30 of the Act.

### ➤ **Preservation of CCTV recordings**

it was stated that in order to facilitate identification of people abetting circulation of counterfeit notes, banks are advised to cover the banking hall/area and counters under CCTV surveillance and recording and preserve the recording.

In continuation to the above, the banks are further advised to preserve CCTV recordings of operations at bank branches and currency chests for the period from November 08 to December 30, 2016, until further instructions, to facilitate coordinated and effective action by the enforcement agencies in dealing with matters relating to illegal accumulation of new currency notes.

### ➤ **The Specified Bank Notes (Cessation of Liabilities) Ordinance, 2016 promulgated**

The Specified Bank Notes (Cessation of Liabilities) Ordinance, 2016 was promulgated on December 30, 2016. It provides that old notes of Rs 500 and Rs 1,000 will cease to be liabilities of the Reserve Bank of India (RBI) from December 31, 2016. Further, these notes will no longer be guaranteed by the central government. Earlier in November 2016, these notes had been demonetised. Key features of the Ordinance include: Grace period: The central government will specify a grace period during which the following persons may deposit the specified notes with the RBI: (i) an Indian citizen who makes a declaration that he was outside India between November 9, 2016 to December 30, 2016, or (ii) any other class of persons specified by the central government. Any such persons depositing old notes will be required to make declarations or statements as specified by the RBI.

The government notified March 31, 2017 as the last date (grace period) for depositing these notes for Indian residents, and June 30, 2017 for non-resident Indians.

Any person willfully making a false declaration will be punished with a fine: (i) which may extend to Rs 50,000, or (ii) five times the value of notes deposited, whichever is higher.

Prohibitions related to specified notes: Any person is prohibited from holding, transferring or receiving the specified bank notes from December 31, 2016 onwards. It exempts persons from this prohibition if: (i) a person holds up to 10 old notes (irrespective of denomination), (ii) a person holds up to 25 notes for the purposes of study, research or numismatics (collection or study of coins and notes), or (iii) a person holds notes on the direction of a court. In addition, the RBI or any people authorized by it are also exempted from this prohibition.

Punishment for holding specified bank notes: Any person holding the specified bank notes, except in the circumstances mentioned above will be punishable with a fine: (i) which may extend to Rs 10,000, or (ii) five times the value of notes possessed, whichever is higher.

## **POLICY WATCH**



### ➤ **Monetary Policy Committee keeps rates unchanged**

The Monetary Policy Committee released the fifth Bi-Monthly Monetary Policy Statement of 2016-17.3 The policy repo rate (at which RBI lends money to commercial banks) was kept unchanged at 6.25%. Other decisions of the Committee include: The reverse repo rate (at which RBI borrows money from commercial banks) remains unchanged at 5.75%. The marginal standing facility rate (under which scheduled commercial banks can borrow



additional money) and bank rate (at which RBI buys or rediscounts bills of exchange) remains unchanged at 6.75%.

➤ **Government constitutes high level committee on institutionalised arbitration.**

The Ministry of Law and Justice constituted a high level committee to review institutionalized arbitration in India. This is to ensure speedy resolution of commercial disputes. The Committee will be chaired by Justice B.N. Srikrishna, and include retired and sitting judges, advocates and representatives of industry. The terms of reference of the High Level Committee include: To review the efficacy of existing arbitration mechanisms, including facilities and resources allocated to them; To evaluate information outreach and the efficacy of existing legal framework for arbitration; To suggest ways to institutionalize national and international commercial arbitration; To recommend legislative amendments that would facilitate International Commercial Arbitration; To advise on the empanelment of national and international arbitrators to ensure time bound arbitral proceedings; To examine the role of arbitrations in matters involving the central government, including arbitrations related to bilateral investment treaties and make relevant recommendations. The Committee is scheduled to present its report within three months.

## INDUSTRY WATCH & CORPORATE HIGHLIGHT



➤ **Committee to propose taxi policy guidelines submits report**

The Committee to propose taxi policy guidelines to promote urban mobility, constituted by the Ministry

of Road Transport and Highways, submitted its report. The Committee reviewed issues related to taxi permits in cities and suggested taxi policy guidelines. The guidelines will provide states with a common detailed framework to formulate regulations for taxi operations. Key observations and recommendations of the Committee include:

**Growth of cars:** The Committee noted that Indian cities suffer from severe traffic congestion which amounts to losses of about Rs 60,000 crore per annum, and adds to pollution levels. One of the major reasons behind this is the uncontrollable growth of cars in Indian cities. Lack of reliable and convenient transport alternatives has resulted in the growth of car ownership in the country. Further, the current challenges are despite only about 5% of Indians owning cars. With car ownership increasing, the problem will only worsen in the future. The Committee recommended a national level policy intervention to promote shared mobility over private vehicle ownership.

**Taxi permits:** The Committee noted that, in most cities, taxi permits have not been issued after 1998. Further, several conditions attached to these permits have become outdated with technology. These act as barriers to entry into the market. It recommended that states should facilitate unhindered grant of permits for all taxis without any restrictions. In addition, online grant of permits should be allowed.

**Aggregators:** Taxi aggregators must get their apps validated from the Standardisation Testing and Quality Certification or any other agency authorised by the Ministry of Electronic and Information Technology. They must also include a firewall for the security of personal data of passengers. The aggregators must have a physical presence in the states where they are operating. They must also provide a grievance redressal mechanism and have an emergency response centre to handle SOS alerts by passengers.

**Taxi permissions:** The Committee recommended that city taxis may be allowed to ply on aggregator platforms. Taxis with All India Tourist Permit may



be allowed to operate for all purposes except as street hailing taxis.

➤ **NITI Aayog launches the National Index for Performance on Health Outcomes**

A composite index for health outcomes of states was launched by NITI Aayog and the Ministry of Health and Family Welfare.<sup>17</sup> It will be calculated and disseminated annually. Monitorable indicators that form a part of the Sustainable Development Goal for health have been included in the index. The aim of this index is to: (i) assist in state level monitoring of performance, (ii) serve as an input for providing performance based incentives, and (iii) improve health outcomes.

Key features of the index include:

The indicators are categorised into the domains of 'health outcomes', 'governance and information' and 'key inputs/processes';

The index has been changed from a base year to a reference year. Further, in each subsequent year, the index will measure incremental improvement of each state, relative to its own baseline performance; and

The indicators have been selected based on their periodic availability through existing data sources such as the Sample Registration System, Civil Registration System, and Health Management Information Systems

➤ **Draft policy for providing new suburban rail systems released**



The Ministry of Railways released a draft policy for providing new suburban rail systems to cater to the growing demand of urban transport.<sup>26</sup> These draft guidelines seek to help address the growing demand for introduction and construction of suburban rail systems in various cities. Key guidelines include:

**Objectives:** The key objective is to eliminate the conflict between long distance intercity transport and suburban transport, and build a financially sustainable transport model that can be replicated in other cities.

**Project features:** The projects will be implemented through a Special Purpose Vehicle (SPV) with equal equity participation from respective state governments and Indian Railways. Projects that would require integration with the existing Railway systems for operational purpose will be considered by Indian Railways depending upon technical, financial, and operational feasibility. In other cases, state governments may take up independent rail based suburban projects under their respective Metro Acts in line with National Urban Transport Policy. **Feasibility studies:**

Feasibility studies for the projects will be carried out by state governments at their own cost. The feasibility reports will be examined by the concerned Zonal Railway for technical, financial and operational feasibility. Based on the state governments' request, Indian Railways will seek sanction of the competent authorities for the projects-

**Land:** Indian Railways will provide land on lease for the projects after considering its own future requirements. The complete cost of land acquisition, leasing of Railway land, and any resettlement and rehabilitation will be met by the state governments.

**Revenue:** All revenues will accrue to the SPV. Operation and maintenance expenses, depreciation and revenue accrual to Indian Railways will be binding on the state government. The state governments will set up a dedicated urban transport fund at state and city level for partly financing the capital cost of the project, and replacement of assets. This fund will be funded through levy of dedicated taxes, levies, betterment tax, impact fee, and development charges around the proposed railway stations.



**Statutory compliance calendar for the month of DECEMBER 2016**

Due Date	Statutory Compliance Under Act	Particulars	Governing Authority
			
5/12/2016	GAR-7	Service Tax payments by Companies for November ** If Service Tax Payment is done online, then the due date of payment of service tax is 6th.	SERVICE TAX
5/12/2016	E-PAYMENT	Duty Payment for all Assesseees other than SSI Units for November ** If Excise Duty, Payment is done online, then the due date of payment of Excise Duty is 6th.	EXCISE DUTY
7/12/2016	CHALLAN NO 281	Due date for deposit of tax deducted /collected for the month of November, 2016	INCOME TAX
15/12/2016	ONLINE	MVAT Monthly Return for November (TAX>1000000/-). If paid in time additional 10 days for uploading e-return.	MVAT
15/12/2016	CHALLAN NO 280	Third installment of advance tax for the assessment year 2018-19	INCOME TAX
15/12/2016	FORM 16	Quarterly certificate on demat/remit shares to depositories	INCOME TAX
15/12/2016	ONLINE	PF Payment for m/o November.	INCOME TAX
21/12/2016	ONLINE	ESIC Payment for m/o November	EMPLOYEES' STATE INSURANCE CORPORATION
30/12/2016	ONLINE	Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA for purchase of Immoveable property in the month of November, 2016	INCOME TAX
30/12/2016	D RULE 5	Annual Return – within 30 days after the expiry of 8 months from the close of the accounting year	THE PAYMENT OF BONUS ACT, 1965 & RULES
31/12/2016	ONLINE	Monthly Return (covering salary paid for the preceding month) (Tax Rs. 50,000 or more)	PROFESSIONAL TAX
31/12/2016	ONLINE	Particulars relating to clearances, electricity load etc., in Form Ann.-4 exceeding the limit of Rs. 90 lakhs of exempted clearances for small scale units availing exemption and whose turnover exceeds or has exceeded Rs. 90 lakhs in a financial year, as the case may be.	CENTRAL EXCISE



### Glossary

AAR	Authority of Advance Rulings
ADR	American Depository Receipt
ALP	Arm's Length Price
AO	Assessing Officer
AP	Association of Persons
APA	Advance Pricing Agreement
ATM	Automated Teller Machine
AY	Assessment Year
BCD	Basic Customs Duty
BI	Body of Individuals
BP	Balance of Payments
CA	Chartered accountant
CAD	Current Account Deficit
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise & Customs
CENVAT	Central Value Added Tax
Customs Act	Customs Act, 1962
CIT	Commissioner of Income Tax
CPI	Consumer Price Index
CSR	Corporate Social Responsibility
CD	Countervailing Duty
DDT	Dividend Distribution Tax
DTA	Domestic Tariff Area
ECB	External Commercial Borrowings
ESI	Employee's state insurance
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FERA	Foreign Exchange Regulation Act
FII	Foreign Institutional Investors
FIPB	Foreign Investment Promotion Board
FPI	Foreign Portfolio Investment
FTS	Fees for Technical Services
FY	Financial Year
GDP	Gross Domestic Product
GDR	Global Depository Receipt
GI	GOVERNMENT OF INDIA
GST	Goods and Services Tax
HUF	Hindu Undivided Family
ICAI	Institute of chartered accountant
IFRS	International Financial Reporting Standard
IDR	Indian Depository Receipt
IIP	Index of Industrial Production
IRDA	Insurance Regulatory Development Authority
ITR	Income tax return

LCD	Liquid-crystal Display
MP	Madhya Pradesh
MP	Market price
MF	Mutual fund
MSME	Micro Small and Medium Enterprises
NBFC	Non Banking Finance Company
NHAI	National Highway Authority of India
NPS	National Pension Scheme
NRI	Nonresident in India
NABARD	National Bank for Agriculture and Rural Development
OEM	Original Equipment Manufacturer
OET Act	Odessa Entry Tax Act, 1999
PSU	Public Service Undertakings
P&L	Profit & loss
PF	Provident fund
POTR	Point of Taxation Rules
QE	Quantitative Easing
QFI	Qualified Foreign Investor
RBI	Reserve Bank of India
REF	Renewable Energy Fund
REIT	Real Estate Investment Trust
Rules	Income-tax Rules, 1962
SA	Standard on Auditing
SAD	Special Additional Duty
SC	Scheduled Caste
SC	Supreme Court
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
ST	Scheduled Tribes
ST	Service Tax
STP	Software Technology Park
STR	Service Tax Rules
STCG	Short Term Capital Gain
TIN	Transaction identification number
TNNM	Transactional Net Margin Method
Tribunal	Income tax Appellate Tribunal
TDS	Tax Deducted at Source
TPO	Transfer Pricing Officer
TED	Terminal Excise Duty
VAT	Value Added Tax
VCC	Venture Capital Companies
VCF	Venture Capital Fund
WPI	Wholesale Price Index
WT	Wealth tax
WB	World bank



### BUSINESS ADVISORY

- Growth Planning
- Succession Planning.
- Strategic Decision Appraisal
- Risk, Uncertainty and Change Management Services
- Strategic Decision Implementation – National and Global Platform
- Wealth Management Services.

### AUDIT & ASSURANCE

- Statutory Audit including Tax Audit & VAT Audit
- Internal Audit and Concurrent Audit
- Management Audit and Operational Audit
- Cost Audit/Reviews
- System and process control reviews.
- Secretarial Audit.

### RBI, FEMA, SEBI Services

- Setting up Liaison Office, Branch Office and Project Office.
- RBI Consulting
- Private Equity Finding Advisory.
- Project Financing.
- Credit Rating.
- Business Asset Valuation.
- Due Diligence.

### TAXATION SERVICES

- Direct Taxation Advisory
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- Implementing and Operating in the tax consolidation regime
- Preparation of return of Income Tax, Service Tax, Excise Duty and VAT.

### OUTSOURCING ACCOUNTANTS

- Annual financial report preparation
- Preparation of general and special purpose statutory accounts
- Processing Payroll
- Cash management reporting
- Accounting system reviews
- Financial analysis
- General Accounting Support, as required by client.



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# contact us

## **BRANCHES / AFFILIATES:-**

*The head quarter of **Rajput Jain & associates**, Chartered Accountant is located in Delhi, India. Beside this **Rajput Jain & associates** has presence all over India, with Nepal, and United States of America, Australia, through its associates / affiliates.*

### **CORPORATE OFFICE**

P-6/90, Connaught Place, Connaught Circus,  
New Delhi-110001, India.

Phone No: -011-23343333.

### **DELHI BRANCH**

204, Prakash Chamber, 6 Netaji Subhash  
Marg, Main Road Daryaganj, New Delhi-  
110002, India.

Phone No: - +91-9871857333; 011-43520194.

### **UTTAR PRADESH BRANCH**

B-2, ShancharVihar, ITI Mankapur, District  
Ghonda, Uttar Pradesh, 271308241, India.

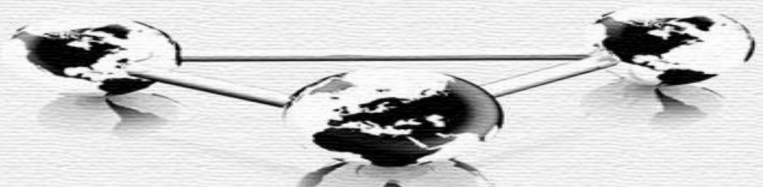
Phone No: - +91-9811322785.

### **NEPAL BRANCH**

Building No:-65, Ward No: - 10, LakheChaur  
Marg, Kathmandu Metropolitan Kathmandu,  
Nepal.

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