

NEWSLETTER

JULY 2017

J P Chawla & Co. LLP
Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Consultancy Services



FINEPRINT

July 2017

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August 19th 2017,

CEO's Message

The Rocket of GST has finally pushed the satellite of GST in its desired orbit . The transition has not been easy and the regulations are still being notified and clarified.

Apart from GST a land mark change is being made in the companies act to encourage ease of doing business, further few rules have been eased out.

Further landmark change in the labour laws is being signified by the Second National Commission on Labour, which has recommended that the existing Labour Laws should be broadly grouped into four or five Labour Codes on functional basis and the Ministry of Labour and Employment has drafted four Labour Codes on Wages; Industrial Relations; Social Security & Welfare; and Safety and Working Conditions respectively on Social Security by simplifying, amalgamating and rationalizing the relevant provisions of the 15 existing Central labour laws and placed on the website of the Ministry on 16.3.2017 and has invited comments of the stakeholders on the same.

Economic indicators have been good where fiscal deficit of the Centre as percentage of GDP has declined consistently since 2013-14 from 4.5 per cent to 3.5 per cent in 2016-17 (provisional actual) and is further budgeted to come down to 3.2 per cent in 2017-18 and CPI inflation falls to record levels, IIP are at three-month low

We sincerely hope this July news letter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations such as company law, FEMA and other laws.

Happy Reading!!

Sincerely Yours,

Rajat Chawla

Managing Partner & CEO
New Delhi

The Month That Was

The Goods and Services Tax (GST) has been one of the key things that has caught the attention of the market given its implications on earnings of companies. The government has kept a large number of items under 18% tax slab. The government categorised 1211 items under various tax slabs. Implementation of the GST will be positive for India's rating as it will lead to higher GDP growth and increased tax revenues. It is expected that the GST will contribute to productivity gains and higher GDP growth by improving the ease of doing business, unifying the national market and enhancing India's attractiveness as a foreign investment destination.

Some of the highlights in July 2017 are:-

Fiscal Deficit of the Centre as percentage of GDP has declined consistently since 2013-14 from 4.5 per cent to 3.5 per cent in 2016-17 (provisional actual) and is further budgeted to come down to 3.2 per cent in 2017-18.

June exports rise for tenth straight month: Export growth slowed in June to 4.39 per cent against 8 per cent in the previous month, even as the country managed to see 10 straight months of rise in outbound trade. Import growth also fell in June, with inbound shipments totalling \$36.52 billion, a rise of 19 per cent over the same month last year. Imports had grown over 33 percent in May year-on-year. Trade deficit was marginally lower at \$12.9 billion in June from \$13.8 billion in May.

CPI inflation falls to record levels, IIP at three-month low: Growth in industrial production fell to a three-month low in May while consumer price index (CPI)-based inflation declined below a stipulated floor of 2 per cent in June. Food items continued to witness deflation amid farmer's distress in various parts of the country

FM launches a new tax payer service module 'Aaykar Setu': That compiles various tax tools, live chat facility, dynamic updates, and important links to various processes within the Income Tax Department in a single module; Says that this e-initiative would not only provide better taxpayer services but would also help in reducing the direct physical interface between assesses and tax assessing authorities.

MUDRA loan to small traders: Rs. 137449 crore sanctioned in FY 2015-16; Rs. 180528 crore sanctioned in FY 2016-17: The Government has taken various steps towards effective implementation of the scheme. These, inter alia, include intensive publicity campaigns, simplification of application form, Credit Guarantee Scheme, nomination of Mudra Nodal Officer etc.

Share of exports to top destinations rose to 51.6% in FY17': India's main export destinations include the US, Japan, Hong Kong, UAE, China, Singapore, UK and Germany. The country's merchandise exports to the US grew from USD 39.14 billion in 2013-14 to USD 42.33 billion in 2016-17.

Total Merger and Acquisition (M&A) activity rose 127 per cent year-on-year to US\$ 35.84 billion in value terms during January-June 2017. Total value of Private Equity (PE)/venture capital (VC) investments rose 62 per cent year-on-year to US\$ 5.4 billion in value terms in April-June quarter 2017.

TAX

ICDS has been challenged before Delhi high court, further CBDT has modified stay of demand instruction, revises partial payment requirement from 15% to 20% and also CBDT has amended Form 3CEFA to give effect to revised Safe Harbour Rules. GST is being continuously notified / clarified.

International Taxation

- **OECD Model Tax Convention 2017 update focuses on 4 non-BEPS areas**

OECD releases draft contents of the 2017 update to the OECD Model Tax Convention prepared by the Committee's Working Party 1. The four areas released for public consultation include i) changes relating to tie-breaker rule in Article 4(2)(a) and whether a house rented to an unrelated person can be considered to be a "permanent home available to" the landlord, ii) interpretation of "habitual abode" in the tie-breaker rule in Article 4(2) (c) , iii) relevance of registration for the purposes of a value added tax or goods and services tax for PE purposes, and iv) changes in article 10 relating to dividends; In respect of several other BEPS-driven changes.

- **Chamber of Tax Consultants assails constitutional validity of ICDS, challenges "unfettered" delegation**

Chamber of Tax Consultants ('CTC') files writ petition before Delhi HC challenging constitutional validity of Income Computation and Disclosure Standards ('ICDS'). Petitioner highlights that the 10 ICDS notified vide CBDT notification / circular, are contrary to settled judicial precedents by the Courts; Petitioner further contends that Central Government / CBDT, in exercise of delegated legislation, cannot have such "uncontrolled, unfettered or absolute powers" while prescribing ICDS in terms of section 145(2), so as to nullify the effect of various Supreme Court / High Court judgments; Petition contends that a circular cannot override judicial decisions rendered on the interpretation of the law and statutes unless it is for the benefit of the assessee; CTC also assails ICDS on the ground of it being violative of Article 19(1)(g) of the Constitution, arguing that it will increase compliance burden and that taxpayers will have to spend considerable amount of time, energy and man hours in preparing and reconciling income as per ICDS & as per current accounting standards;

- **Nortel Networks India International Inc -SC to examine PE trigger for Nortel US, admits Revenue SLP**

SC admits Revenue's SLP against Delhi HC judgement in case of Nortel Networks. HC had held that activities carried out by assessee's (Nortel US) Indian subsidiary (Nortel India) did not constitute a PE in India and further held that income from supply of equipment was not attributable to India; HC had rejected Revenue's stand that Nortel India constituted assessee's PE as assessee did not have any financial/ technical ability to perform the equipment contract and that it was merely a 'shadow

company'; HC had further dismissed Revenue's allegation that assessee had a fixed place PE, dependent agent PE, service PE and installation PE in India.

- **CBDT: Modifies stay of demand instruction, revises partial payment requirement from 15% to 20%**

CBDT modifies earlier office memorandum dated February 29, 2016 which was issued in partial modification of CBDT instruction No. 1914 of 1996 laying down guidelines for stay of demand pending appeal before CIT(A); Earlier instruction directed AO to grant stay of demand till disposal of appeal by CIT(A) on payment of 15% of disputed demand, subject to certain exceptions; CBDT now revises the partial payment percentage from 15% to 20% of the disputed demand; Takes note of the feedback received from field authorities whereby the standard rate of 15% of disputed demand was found to be on the lower side; Accordingly, CBDT clarifies that all references to 15% of the disputed demand in the office memorandum dated February 29, 2016 hereby stands modified to 20% of the disputed demand.

- **Unquoted shares valuation guidance largely similar to draft rules**

CBDT releases final rules for valuation of unquoted equity shares (amendment in Rule 11UA and new rule 11UAA), effective from financial year beginning on April 1, 2017.

- **Delhi HC: Airport lounge royalty covered under expanded 'rent' definition u/s 194-I**

Delhi High Court holds that royalty paid by ITC to Airport Authority of India (AAI) for use of lounge premises is "rent" within the meaning of Sec 194-I and therefore covered under the expanded definition of "rent" and liable to tax deduction at source (TDS); HC upholds mandatory interest as well as u/s. 201(1)(a), HC observes that even though the deductee has paid the tax, nevertheless the interest would be payable; HC however deletes the penalty.

Transfer Pricing

- **CBDT amends Form 3CEFA to give effect to revised Safe Harbour Rules**

CBDT amends Form 3CEFA (Application for Opting for Safe Harbour) w.e.f. April 1, 2017 to give effect to revised Safe Harbour Rules; Regarding provision of KPO services, requires details of employee cost in relation to operating expense declared and in respect of intra-group loans advanced, requires details like currency of denomination of the amount of loan for each loan transaction and confirmation if credit rating of AE is done and if yes, the credit rating rank and the name of the credit rating agency; Further, amended Form seeks details of the new category of eligible international transaction 'low value added intra-group services' like AE particulars, description of the services, whether jurisdiction of AE is low or no tax jurisdiction, amount paid / payable, markup charged & whether price is in accordance with circumstances specified under Rule 10TD etc.

- **OECD releases 2017 edition of TP-Guidelines incorporating BEPS outcomes & revised safe harbours guidance**

OECD releases 2017 edition of OECD Transfer Pricing (TP) Guidelines for Multinational Enterprises and Tax Administrations; 2017 edition of the TP Guidelines incorporates substantial revisions introduced by the 2015 BEPS Reports on Actions 8-10 (Aligning Transfer Pricing Outcomes with Value Creation) and Action 13 (Transfer Pricing Documentation and Country-by-Country Reporting) which were approved in May 2016.

- **VFS Global Services Pvt Ltd [TS-595-HC-2017(BOM)-TP]-Rejects Revenue's plea against ITAT's comparable remand; Upholds LIBOR+2% as interest benchmark**

HC dismisses Revenue's appeal challenging ITAT-order remanding functional comparability of 'Cosmic Global (which was selected by assessee itself in its TP-study but later retracted before Tribunal) for benchmarking assessee's international transaction of providing UK-Visa Processing services for AY 2008-09.

On observing the fact, Tribunal had concluded that Cosmic Global's nature of business was distinct from the one carried out by assessee and further, AO in remand proceedings had subsequently held the company as incomparable after examining the functional comparability.

HC holds that grounds raised by Revenue would not survive. Separately, regarding Revenue's contention against Tribunal direction to consider LIBOR plus 2% instead of Indian market rates for determining interest. HC dismisses Revenue's appeal absent substantial question of law.

- **Symphony Marketing Solutions India P Ltd [TS-582-ITAT-2017(Bang)-TP]- Restores DRP's cryptic and stereotype order for fresh adjudication of TP-issue**

Bangalore ITAT sets aside DRP order, holds that DRP adjudicated most of the grounds raised by assessee in a very cryptic and stereotyped manner. It observes that DRP has not discussed individually the functional profile of each company sought to be excluded or included by assessee. Thus, restores entire TP issue to DRP for fresh adjudication after providing assessee an adequate opportunity of being heard.

Further, it also states that DRP is bound to follow Delhi HC ruling in Chryscapital Investment Advisors on comparability issue. Also, regarding assessee's ground on rejection of TP documentation and use of incorrect data /information in ALP-computation, notes that assessee has filed a rectification application before DRP which is pending adjudication; Directs DRP to adjudicate these grounds on merit, also observes that assessee should not have raised these grounds pending adjudication by DRP.

- **New Delhi Television Ltd [TS-579-ITAT-2017(DEL)-TP]- Remits corporate guarantee TP-adjustment pending Special-Bench decision whether it constitutes 'international transaction'**

ITAT remits TP-issues for assessee (engaged in the business of television news broadcasting and producing customized software, programmes for broadcasters) for AY 2009-10. It Sets aside TP-adjustment in respect of corporate guarantee, states that as the question whether corporate guarantee is an international transaction or not is a matter pending before Special Bench "it would...not be proper for us to decide the issue now"; Accordingly, sets aside issue back to TPO "with a direction to decide the issue after the decision of the Special Bench of tribunal".

Further, Regarding grant of working capital adjustment in assessee's business support segment, ITAT sets aside issue back to TPO "with a direction to the assessee to submit the details of working capital adjustment to the Id Transfer Pricing Officer and if the Id TPO find it after examination in accordance with the law then same may be granted to the assessee"

ITAT Holds that "there is no reason to take a contrary view in the present year and therefore, we restore this issue to the file of the AO /TPO to redo the exercise of determination of ALP by considering the credit period allowed in realization of sale proceeds as closely linked transaction with the transaction of providing services to the AE and therefore, both has to be clubbed and aggregated for the purpose of determination of ALP"

- **Fosroc Chemicals India Pvt Ltd [TS-572-ITAT-2017(Bang)-TP]- Directs entity-TNMM application after aggregating management fees with other international transactions**

Bangalore ITAT remits matter back to AO / TPO to aggregate transaction of royalty and management fee with other international transactions undertaken by assessee engaged in the business of manufacture of specialty construction chemicals for AY 2008-09. TPO had separately

benchmarked payment of management & technical fees and held that there was no basis for assessee's adoption of 10% & 15% markup respectively.

ITAT holds that "it requires aggregation of these transactions with other transactions, and the most appropriate method is to adopt TNMM at entity level for the purpose of the bench marking the transactions", thus remands matter back to AO/TPO

▪ **Mitsui and India Pvt Ltd [TS-602-SC-2017-TP]**

SC admits SLP against Delhi HC order confirming deletion of TP-adjustment in Mitsui India's case (a leading Sogo Shosha establishment), tags with Li & Fung case; TPO had proposed adjustment for AYS 2009-10 and 2010-11 by re-characterizing support services as trading activity, TPO also included cost of sales while computing denominator of PLI; HC had upheld ITAT order following Delhi HC ruling in Li & Fung India.

Direct Tax

- **Eligibility conditions u/s 80-IA applicable only to initial-AY, not entire tax-holiday period: [International Tractors Ltd. Vs. Commissioner of Income Tax]:**

Delhi HC upholds ITAT order allowing Sec. 80-IA benefit to assessee-company [which was initially a small scale industrial undertaking ('SSI'), subsequently converted to medium scale undertaking] for AYs 2000-01 to 2002-03, rules that eligibility condition with respect to investment in plant and machinery is to be fulfilled only in initial AY and not in all ten consecutive AYs eligible for deduction.

- **NR's salary for services outside India non-taxable despite NRE-account credit [Sumana Bandyopadhyay & Anr. Vs. Deputy Director of Income Tax]:**

Calcutta HC reverses ITAT order that the salary received by NRE seafarer in the NRE account directly from his employers constituted receipt of the said sum in India and attracted Section 5(2)(a). HC held that remuneration received by assessee-individual (a non-resident individual, working as marine engineer in foreign waters) in his NRE account in India, not taxable Income, Rejects Revenue stand that the salary was taxable in India on 'receipt basis' u/s. 5(2)(a) despite services rendered outside India.

As per CBDT circular No. 13/2017 issued by Ministry of Finance on April 11, 2017 provides that salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) shall not be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank.

HC remarks that "The Circular is clarificatory in nature and is applicable for construing the aforesaid provision for the relevant AY".

- **Sales tax subsidy, a revenue receipt absent capital utilization condition [CIT vs. Bhushan Steels and Strips Ltd] :**

Delhi HC reverses ITAT order for AY 1995-96 and rules in favour of the Revenue, holds that amount received by assessee by way of exemption of sales tax payments under the UP state subsidy scheme, a taxable trading receipt; HC refers to the UP State subsidy scheme, under which assessee was allowed to retain the sales tax amounts, subject to the quantitative limit of 100% of capital expenditure; HC rejects assessee's stand that since the quantitative limit of subsidy was linked to capital expenditure, the subsidy was capital in nature as it meant replenishing the capital expenditure.

HC dismissed assessee's contention that since the quantitative limit of subsidy was linked to capital expenditure, the subsidy was capital in nature as it meant replenishing the capital expenditure and called it unjustified.

▪ **Sec. 221 penalty to be imposed only on 'tax' component excluding interest:**

Bombay HC upholds that Penalty u/s 221(1)-Interest component has to be excluded while levying Penalty. The term "tax in arrears" does not include interest component.

HC refers to the definition of 'tax' u/s. 2(43) and observes that it does not take within its fold the interest component, further observes that "Upon reading Section 221 in its entirety, it is abundantly clear that the aspect of default in payment of tax and the amount of interest payable are treated as distinct and separate components.";

▪ **Deletes Sec. 43B addition for unpaid VAT not routed through P&L account:
[Assistant Commissioner of Income Tax VS M/s Ganapati Motors]:**

Chhattisgarh HC upholds ITAT order, deletes Sec. 43B addition with regards to unpaid VAT, not claimed as deduction in the books of accounts; HC notes that while the VAT component collected was not paid before the return filing due-date u/s. 139(1), such VAT was also not charged to the Profit and Loss account and was accounted for separately in the Books of Accounts.

Sec. 43B of the Act provides that certain expenses such as bonus to employees, any tax, cess, duty etc. can be claimed as deduction while computing the business or professional income only when its payment is actually made by the assessee before the return filing due-date prescribed u/s. 139(1).

Goods and Service Tax

- **Assigning jurisdiction and power to officers of various directorates**

As per Notification No. 14/2017, the Central Board of Excise and Customs has appointed the officers in the Directorate General of Goods and Services Tax Intelligence, Directorate General of Goods and Services Tax and Directorate General of Audit as central tax officers.

- **Central Tax amending CGST Rules notification 10/2017-CT**

As per Notification No. 15/2017, the Central Government has further amended the Central Goods and Service Tax Rules, 2017 notified through Notification No. 10/2017 and the same may be called the Central Goods and Service Tax (Third Amendment) Rules, 2017.

- **Conditions and safeguards for furnishing a Letter of Undertaking in place of a bond for export without payment of integrated tax :-**

As per Notification No. 16/2017, the Central Board of Excise and Customs specifies the conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

1. The following registered person shall be eligible for submission of Letter of Undertaking in place of a bond:-

- (a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015- 2020; or
- (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,

and he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

2. The Letter of Undertaking shall be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor on the letter head of the registered person.

- **IGST exemption to SEZs on import of Services by a unit/developer in an SEZ:-**

As per Notification No. 18/2017- Integrated Tax (Rate), the Central Government hereby exempts services imported by a unit or a developer in the Special Economic Zone for authorized operations, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017).

▪ **Rescinding Notification No. 15/2017-Integrated Tax (Rate) dated 30.06.2017**

As per Notification No. 17/2017, the Central Government hereby rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 15/2017- Integrated Tax (Rate), dated the 30th June, 2017, published in the Gazette of India, Extraordinary, vide number G.S.R. 740 (E), dated the 30th June, 2017.

▪ **Press Release - Abolishment Of Check Posts - With The Roll Out Of GST Check Posts Get Abolished Across India**

The Goods and Services Tax (GST) was rolled out on 1st of July 2017. With the roll out of the GST, 22 states in India have abolished their check posts. The details are as under –

Andhra Pradesh	Arunachal Pradesh	Bihar
Gujarat	Karnataka	Kerala
Madhya Pradesh	Maharashtra	Sikkim
Tamil Nadu	West Bengal	Chhattisgarh
Delhi	Goa	Haryana
Jharkhand	Odisha	Puducherry
Rajasthan	Telangana	Uttar Pradesh
Uttarakhand		

States where check posts are in the process of being abolished:-

Assam	Himachal Pradesh	Manipur
Meghalaya	Nagaland	Punjab
Mizoram	Tripura	

▪ **Press Release - GST Rate For Specified Items For Physically Challenged Persons**

GST rates fixed for specific devices for physically challenged persons are as follows:

Assistive devices and rehabilitation aids for physically challenged persons, listed below, have been kept at the concessional 5% GST rate:

- 1) Braille writers and braille writing instruments;
- 2) Handwriting equipment like Braille Frames, Slates, Writing Guides, Script Writing Guides, Styli, Braille Erasers
- 3) Canes, Electronic aids like the Sonic Guide;
- 4) Optical, Environmental Sensors;
- 5) Arithmetic aids like the Taylor Frame (arithmetic and algebra types), Cubarythm, and Speaking or Braille calculator;
- 6) Geometrical aids like Combined Graph and Mathematical Demonstration Board, Braille Protractors, Scales, Compasses and Spar Wheels;

7) Electronic measuring equipment such as Calipers, Micrometers, Comparators, Gauges, Gauge Block Levels, Rules, Rulers and Yardsticks

8) Drafting, Drawing Aids, Tactile Displays;

9) Specially adapted Clocks and Watches;

10) Orthopedic appliances falling under heading No.90.21 of the First Schedule;

11) Wheel Chairs falling under heading No.87.13 of the First Schedule;

12) Artificial electronic larynx and spares thereof;

13) Artificial electronic ear (Cochlear implant);

14) Talking books (in the form of cassettes, discs or other sound reproductions) and largeprint books, braille embossers, talking calculators, talking thermometers;

15) Equipment for the mechanical or the computerized production of braille and recorded material such as braille computer terminals and displays, electronic braille, transfer and pressing machines and stereo typing machines;

16) Braille Paper;

17) All tangible appliances including articles, instruments, apparatus, specially designed for use by the blind;

18) Aids for improving mobility of the blind such as electronic orientation and obstacle detecting appliance and white canes;

19) Technical aids for education, rehabilitation, vocational training and employment of the blind such as Braille typewriters, braille watches, teaching and learning aids, games and other instruments and vocational aids specifically adapted for use of the blind;

20) Assistive listening devices, audiometers;

21) External catheters, special jelly cushions to prevent bed sores, stair lift, urine collection bags;

22) Instruments and implants for severely physically handicapped patients and joints replacement and spinal instruments and implants including bone cement.

2. Most of the inputs and raw materials for manufacture of these assistive devices/equipments attract 18% GST. The concessional 5% GST rate on these devices/equipments would enable their domestic manufacturers to avail Input Tax Credit of GST paid on their inputs and raw materials. Further, the GST law provides for refund of accumulated Input Tax Credit, in cases, where the GST rate of output supply is lower than the GST rate on inputs used for their manufacture. Therefore, 5% GST rate on these devices/equipments would enable their domestic manufacturers to claim refund of any accumulated Input Tax Credit. That being so, the 5% concessional GST rate on these devices/equipment would result in reduction of the cost of domestically manufactured goods, as compared to the pre-GST regime.

3. As against that, if these devices/equipments are exempted from GST, then while imports of such devices/equipments would be zero rated, domestically manufactured such devices/equipments will continue to bear the burden of input taxes, increasing their cost and resulting in negative protection for the domestic value addition.

3. In fact, the 5% concessional GST rate on such devices/equipments will result in a win-win situation for both the users of such devices, the disabled persons, as well as the domestic manufacturers of such goods. It is for this reason that the Council has kept these items in 5% rate slab.

▪ **Press Release Dt 05.07.2017 - Meaning Of Registered Brand Name In The Context Of GST Rates**

1. The CGST rate on supply of certain goods, such as chena or paneer, natural honey, wheat, rice and other cereals, pulses, flour of cereals and pulses, other than those put up in unit container and bearing a registered brand name, is Nil. Supply of such goods, when put up in unit container and bearing a registered brand name attracts 2.5% CGST rate.

2. Clarification regarding the meaning of registered brand name. In this context, the Notification No.1/2017-Central Tax (Rate), dated 28.06.2017 [which notifies the CGST rates of intra-state supply of goods] and notification No.2/2017-Central Tax (Rate), dated 28.06.2017 [which exempts intra-state supply of the specified goods] clearly defines “registered brand name” as brand name or trade name, which is registered under the Trade Marks Act, 1999. In this regard, section 2 (w) read with section 2 (t) of the Trade Marks Act, 1999 provide that a registered trade mark means a trade mark which is actually on the Register of Trade Marks and remaining in force.

3. Thus, unless the brand name or trade name is actually on the Register of Trade Marks and is in force under the Trade Marks Act, 1999, the CGST rate of 5% will not be applicable on the supply of such goods

▪ **Press Release dt 07.07.2017 on “Education”**

There are some press reports that education will become expensive under GST. These are completely unsubstantiated. There is no change made in any subject relating to education in the GST era, except to reduce tax rate on certain items of education such as school bags etc.

2. It may be mentioned that services provided by an educational institution to students, faculty and staff are exempt:

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course.

3. Transportation of students, faculty and staff services provided to an educational institution (providing pre-school education and education up to higher secondary school or equivalent) are exempt from GST. Similarly, catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory, to an educational institution providing education upto higher secondary school or equivalent, are also exempt from GST. Further, security or cleaning or housekeeping services performed in such educational institutions are also exempt from GST. Finally, services relating to admission to, or conducting of examination by, such institutions, upto higher secondary, too are exempt from GST.

Thus, education upto Higher Secondary School level does not suffer GST on output services and also on most of the important input services. Some of the input services like transport, canteen etc. provided by private players to educational institutions were subject to service tax in pre-GST era and the same is continued in GST regime.

4. Furthermore, services by an entity registered under section 12AA of the Income-tax Act by way of charitable activities relating to advancement of educational programmes or skill development for

- (a) abandoned, orphaned or homeless children
 - (b) physically or mentally abused and traumatized persons
 - (c) prisoners
 - (d) persons over the age of 65 years residing in a rural area,
- are also exempt from GST.

5. Hence, there has been no change in taxability of educational and other services on account of GST.

▪ **CBEC Press Release Dt 07.07.2017 - GST Rate Finder**

The Union Finance Minister Shri Arun Jaitley launched a mobile app “GST Rates Finder” which is available on android platform and will soon be available on iOS platform. This app helps users to find rates of GST for various goods and services. It can be downloaded on any smart phone and can work in offline mode, once downloaded. The user can determine the GST rate for a good or a service by entering the name or chapter heading of the commodity or service. The search result will list all the Goods and Services containing the name which was typed in the search box. The user can scroll down the list of description and when any specific item on the list is clicked, the display window will popup, containing details such as GST rate, description of goods or services and the Chapter heading of the Harmonised System of Nomenclature (HSN). For example, any person who has been billed by a hotel or a restaurant or for footwear can cross verify the correctness of the rate of GST charged.

CBEC has also provided a GST rate finder on its portal cbec-GST.gov.in to help the taxpayers know the applicable GST rate on their supplies of goods and services. A taxpayer can search for applicable CGST, SGST, UTGST rate and Compensation Cess on a supply. The search can be made based on description of goods or services or HSN Chapter or section or heading number.

These initiatives are aimed to serve as a ready reckoner on GST rates. This will empower not only the taxpayers, but every citizen of the nation, to ascertain the correct GST rate on goods and services.

▪ **Press Release dt. 08/08/2017- Clarification on migration, new registration, opting for composition scheme, and issue of bills of supply**

1. The rules related to registration and composition scheme have been notified on 19th June, 2017. These rules have been brought into effect from 22nd June, 2017. The intent of notifying these rules is to start the process of issue of registration certificate, called Goods and Services Tax Identification Number (GSTIN), to taxpayers who have already been issued provisional ID for registration (PID) as well as to the new taxpayers.

2. Any person who has been granted PID and who opts for composition scheme, should submit an intimation of option in a prescribed form on GSTN on or before 21st July, 2017.

3. Any persons who has PID may submit the required documents on GSTN for getting the certificate of registration. It is clarified that a period of three months is allowed to complete this procedure i.e. the formalities can be completed on or before 22nd September, 2017. In the interim, they can issue tax invoice using the PID already allotted to them.

4. A person seeking fresh registration can apply for registration within thirty days from the date on which he becomes liable for registration. They can also opt for composition scheme at the time of filing of registration form.

5. The applicant for grant of new registration can issue a bill of supply for supplying goods or services during the period from the date of liability to obtain registration till date of issuance of the registration certificate, if he has applied for registration within thirty days from the date he has become liable for registration. On grant of certificate of registration he can issue revised tax invoices for the supplies made during this period.

▪ **Press Release dt. 08/08/2017- Jammu & Kashmir joins GST**

Goods and Services Tax was launched in the country from the midnight of 1st July, 2017. On 6th July 2017, the State of Jammu and Kashmir took the first step towards adopting the GST regime with the President of India giving assent to the Constitution (Application to Jammu and Kashmir) Amendment Order, 2017. Resultantly, the One Hundred and First Amendment Act, 2016 to the Constitution of India that paved the way for introduction of GST in the country, became applicable to the State of Jammu and Kashmir also. Following this, on 7th July, 2017 the Jammu and Kashmir Goods and Services Tax Bill, 2017 was passed by the State legislature, empowering the State to levy State GST on intra-state supplies with effect from 8th July, 2017.

Concomitantly, the President of India has promulgated two ordinances, namely, the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 extending the domain of Central GST Act and the Integrated GST Act to the State of Jammu and Kashmir, with effect from 8th July, 2017. With this, the State of Jammu and Kashmir has become part of the GST regime, making GST truly a “one nation, one tax” regime.

▪ **Press Release dt. 10/07/2017- GST on Gifts**

The gifts and perquisites supplied by companies to their employees will be taxed in GST. Gifts upto a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST. However, gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business, but the issue is that the gift has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Another issue is the taxation of perquisites. It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows there from that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the input tax credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

▪ **Press Release Dt.11/07/2017- GST On Free Food Supplied By Religious Places**

1. No GST is applicable on such food supplied free.
2. Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc. attracts Nil CGST and SGST or IGST, as the case may be.
3. However, some of the inputs and input services required for making prasadam would be subject to GST. These include sugar, vegetable edible oils, ghee, butter, service for transportation of these goods etc. Most of these inputs or input services have multiple uses. Under GST regime, it is difficult to prescribe a separate rate of tax for sugar, etc. when supplied for a particular purpose.
4. Further, GST being a multi-stage tax, end use based exemptions or concessions are difficult to administer. Therefore, GST does not envisage end use based exemptions. It would, therefore, not be desirable to provide end use based exemption for inputs or input services for making prasadam or food for free distribution by religious institutions.

▪ **Press Release dt. 13/07/2017- Services provided by RWA (Resident Welfare Association)/Housing Society**

1. There are some press reports that services provided by a Housing Society [Resident Welfare Association (RWA)] will become expensive under GST. These are completely unsubstantiated.
2. It may be mentioned that supply of service by RWA (unincorporated body or a registered non-profit entity) to its own members by way of reimbursement of charges or share of contribution up to

an amount of five thousand rupees per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.

3. Further, if the aggregate turnover of such RWA is upto Rs.20 Lakh in a financial year, then such supplies would be exempted from GST even if charges per member are more than Rs. five thousand.

4. RWA shall be required to pay GST on monthly subscription/contribution charged from its members if such subscription is more than Rs. 5000 per member and the annual turnover of RWA by way of supplying of services and goods is also Rs. 20 lakhs or more. Under GST, the tax burden on RWAs will be lower for the reason that they would now be entitled to ITC in respect of taxes paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fittings etc.) and input services such as repair and maintenance services. ITC of Central Excise and VAT paid on goods and capital goods was not available in the pre-GST period and these were a cost to the RWA.

5. Thus, there is no change made to services provided by the Housing Society (RWA) to its members in the GST era.

▪ **Press Release dt. 13/07/2017- Lodging in Hostels**

1. There are some reports that GST@18% will be levied on annual subscription/fees charged for lodging in hostels. There is no change in tax liability relating to education and related services in the GST era, except reduction in tax rate on certain items of education.

2. It may be mentioned that services provided by an educational institution to students, faculty and staff are fully exempt. Educational institution has been defined as an institution imparting

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course.

3. Thus, services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.

▪ **Press Release dt. 13/07/2017- Clarification on tax in Reverse Charge on Gold Ornaments**

1. The purchase of old gold jewellery by a jeweller from a consumer will be subject to GST @ 3% under reverse charge mechanism in terms of the provisions contained in Section 9(4) of the CGST Act, 2017.

2. Section 9(4) of the said Act mandates that tax on supply of taxable goods (gold in this case) by an unregistered supplier (an individual in this case) to a registered person (the jeweller in this case) will be paid by the registered person (the jeweller in this case) under reverse charge mechanism. This

provision, however, has to be read in conjunction with section 2(105) read with section 7 of the said Act. Section 2 (105) defines supplier as a person supplying the goods or services. Section 7 provides that a supply is a transaction, for a consideration by a person in the course or furtherance of business.

3. Even though the sale of old gold by an individual is for a consideration, it cannot be said to be in the course or furtherance of his business (as selling old gold jewellery is not the business of the said individual), and hence does not qualify to be a supply per se. Accordingly the sale of old jewellery by an individual to a jeweller will not attract the provisions of section 9(4) and jeweller will not be liable to pay tax under reverse charge mechanism on such purchases. However, if an unregistered supplier of gold ornaments sells it to registered supplier, the tax under RCM will apply.

▪ **Press Release dt. 15/07/2017- Applicability of margin scheme under GST on old & used bottles**

1. Rule 32(5) of the Central Goods and Services Tax Rules, 2017 provides that where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored. This is known as the margin scheme.
2. Further, notification No.10/2017-Central Tax (Rate), dated 28.06.2017 exempts central tax leviable on intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods [who pays the central tax on the value of outward supply of such second hand goods as determined under sub-rule (5)] from any supplier, who is not registered. This has been done to avoid double taxation on the outward supplies made by such registered person, since such person operating under the margin scheme cannot avail input tax credit on the purchase of second hand goods.
3. Thus, margin scheme can be availed of by any registered person dealing in buying and selling of second hand goods [including old and used empty bottles] and who satisfies the conditions as laid down in rule 32(5) of the Central Goods and Services Tax Rules, 2017.

▪ **Press Release dt. 15/07/2017- Provisions related to registration in GST regime**

Registrations are required to be taken on or before 30th July, 2017. If an assessee is carrying out any business and have an annual aggregate turnover in the preceding financial year exceeding Rs. 20 lakhs (Rs. 10 lakhs in Special Category States), has to register in all States/Union Territories from where he is making taxable supplies. However, there is no need to be registered if assessee is engaged exclusively in the supply of exempted goods or services or both. The timelines for applying for registration are as follows:-

Registered under any of the existing law	Migrated	Liable for registration in GST regime	Provisional Ids issued need to be converted to GSTIN by submitting necessary documents in 3 months (i.e. by 22nd September 2017)
		Not liable for registration in GST regime	Need to apply for cancellation in 30 days (i.e. by 22nd July, 2017)
	Not Migrated	Liable for registration in GST regime	Need to apply for registration within 30 days (i.e. by 22nd July, 2017)
Not registered under any of existing law	Liable for registration in GST regime	Become liable from 01/07/2017	Need to apply for registration within 30 days (i.e. by 30th July, 2017)
		Become liable after 01/07/2017	Need to apply for registration within 30 days from becoming liable for registration

Taking registration in GST is a very simple process, the registration can be taken by filing an online application on the common portal <https://www.GST.gov.in/>. All you need is a valid PAN, email id and a mobile number. Once these 3 details are verified, you will be required to furnish other details relating to your business. There is no need to submit any physical documents (unless a query is raised and documents asked for) and all necessary documents can be scanned and uploaded. If there are no queries, you will receive your registration online within 3 working days from submission of online application.

If you are liable to take registration but don't get registered, you will not be able to enjoy the benefit of input tax credit. Not only you, but any registered person, purchasing from you may not be able to get the input tax credit. Not obtaining registration, though liable to do so, would also attract penalty.

▪ **Press Release Dt 15.07.2017 On Legal Services**

The legal service has been defined to mean any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

It is further clarified that notification No. 13/2017-Central Tax (Rate) dated 28.6.2017 (Serial No. 2) specifies, inter alia, the following service under reverse charge mechanism,-

“Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.”

The words “by way of legal services” are preceded and succeeded by comma. Therefore, the said words apply to an individual advocate including a senior advocate and a firm of advocates. Legal services provided by either of them are liable for payment of GST under reverse charge by the business entity. The words “by way of representational services before any court, tribunal or authority...” appear in conjunction with senior advocate without a comma and merely describe the nature and mode of representational services provided by a senior advocate to a business entity. It, therefore, follows that legal services, which includes representational services, provided by advocates are under reverse charge.

▪ **Press Release dt. 17/07/2017- Increase in the Compensation Cess on Cigarettes**

1. In pursuance of the recommendations of the GST Council in its 14th meeting held on 18.05.2017 and 19.05.2017, the Compensation Cess rates under section 8 (2) of the Goods and Services Tax (Compensation to States) Act, 2017, was notified vide notification No.1/2017-Compensation Cess (Rate), dated 28.06.2017 on intra-state or inter-state supply of the specified goods, including cigarettes.

2. In respect of cigarettes, the Fitment Committee had recommended that in line with the weighted average VAT rate [28.7%] the GST rate on cigarettes may be kept at 28%. In addition, Compensation Cess may be levied on cigarettes at rates equal to 1.05 times the specific excise duty rates [net of NCCD]. However, this method of calibrating the Compensation cess did not take into consideration the cascading of taxes [that is in earlier regime VAT being charged on value inclusive of the excise duty]. As a result, the total tax incidence on cigarettes in GST regime has come down, as compared to the total tax in preGST regime.

3. While any reduction in tax incidence on items of mass consumption would be welcome, the same would be unacceptable in case of demerit goods like cigarettes.

4. The GST Council in its meeting on 17.07.2017 reviewed the Compensation Cess rates on cigarettes and recommended the following increase in the same with effect from 00 hours on 18th July, 2017 i.e. the midnight of 17th and 18th July, 2017:

Tariff Item		Compensation Cess Rates		
		Present rate	Proposed Increase	New rates
	Non- filter			
2402 20 10	Not exceeding 65 mm	5% + Rs.1591 per thousand	Rs.485 per thousand	5% + Rs.2076 per thousand

2402 20 20	Exceeding 65 mm but not 70 mm	5% + Rs.2876 per thousand	Rs.792 per thousand	5% + Rs.3668 per thousand
	Filter			
2402 20 30	Not exceeding 65 mm	5% + Rs.1591 per thousand	Rs.485 per thousand	5% + Rs.2076 per thousand
2402 20 40	Exceeding 65 mm but not 70 mm	5% + Rs.2126 per thousand	Rs.621 per thousand	5% + Rs.2747 per thousand
2402 20 50	Exceeding 70 mm but not 75 mm	5% + Rs.2876 per thousand	Rs.792 per thousand	5% + Rs.3668 per thousand
2402 20 90	Others	5% + Rs.4170 per thousand	31%	36% + Rs.4170 per thousand

▪ **Press Release dt. 18/07/2017- Clarification on GST rates on hotel accommodation**

The accommodation in any hotel, including 5-star hotels having declared tariff of a unit of accommodation of less than INR 7500 per unit per day, will attract GST @ 18%. Star rating of hotels is, therefore, irrelevant for determining the applicable rate of GST.

▪ **Press Release dt. 22/07/2017- Concerns of the tax payers arising from transition to the GST regime**

With a view to ease the compliance burden of provisionally migrated small taxpayers opting to pay tax under the Composition scheme, it has been decided to extend the time limit for filing intimation for Composition levy (filing of intimation FORM GST CMP-01) up to 16th August, 2017.

Similarly, the taxpayers who were provisionally migrated by virtue of being registered under the existing laws, but who are no longer required to be registered under GST, the period of applying for cancellation of registration is being extended up to 30th September, 2017. Relevant notifications are being issued.

▪ **Press Release dt. 21/07/2017- Visit of the SG WCO**

Secretary General of World Customs Organization, Dr Kunio Mikuria during two-day visit to India had called on the Finance Minister to discuss various issues relating to Customs and Trade Facilitation.

SG appreciated various initiatives taken by Indian Customs to facilitate trade particularly the release of the National Trade Facilitation Action Plan. The Action Plan was released by Honourable Finance Minister on 20-07-2017. The Action Plan aims to align border procedures with international best practices and improve ease of doing business.

While praising the massive reforms in the Indian taxation system with implementation of GST, he said that the efforts made with regard to outreach and capacity building before implementation of GST in India can be emulated by many countries.

He further mentioned about WCO working with G20 on illicit financial flows. He sought Indian support for the study on illicit financial flows and plugging of trade based money laundering.

In the morning, Secretary General along with Chairman, CBEC Ms Vanaja Sarna addressed workshop on "Trade Facilitation Agreement – Learning from Implementation Experience" at FICCI Federation House. This workshop has been organised by CBEC, FICCI and World Bank to share Global experience and Indian perspective on best practices in Trade Facilitation. International experts from WTO, World Bank and other countries participated in the said workshop.

Mr Mikuriya spoke about how WCO is helping many countries in implementation of TFA through their Mercator Programme. He specifically appreciated TFA plus category in India's Action Plan. In her

special address, Chairman, CBEC said that as we start the journey in the new era of one nation, one tax, one market, the national trade facilitation action plan will prove to be a milestone as well as a barometer of orientation from a regulatory taxation regime to that of one committed to facilitating legitimate trade.

During the course of the day, Secretary General had separate meetings with Revenue Secretary, Secretary DIPP, Chairman and members of CBEC.

▪ **Press Release dt. 25/07/2017- National Anti-Profiteering Authority under GST**

1. The GST Council has formed a Selection Committee under the Chairmanship of Cabinet Secretary to identify and recommend eligible persons for appointment as Chairman and Members of the National Anti-profiteering Authority under GST. The National Antiprofitteering Authority is tasked with ensuring the full benefits of a reduction in tax on supply of goods or services flow to the consumers.

2. When constituted by the GST Council, the National Anti-profiteering Authority shall be responsible for applying anti-profiteering measures in the event of a reduction in rate of GST on supply of goods or services or, if the benefit of input tax credit is not passed on to the recipients by way of commensurate reduction in prices. The National Antiprofitteering Authority shall be headed by a senior officer of the level of a Secretary to the Government of India and shall have four technical members from the Centre and/or the States.

3. The already notified Rules on Anti-profiteering measures provide that applications seeking to invoke anti-profiteering measures shall be examined by a Standing Committee. However, if the application relates to a local matter which the business is located in only one state, it shall be first examined by a State level Screening Committee. The Standing Committee is empowered to refer cases requiring detailed enquiry to Director General of Safeguards, CBEC who shall give his recommendation for consideration of the National Anti-profiteering Authority.

4. In the event the National Anti-profiteering Authority confirms the necessity of applying anti-profiteering measures, it has the power to order the business concerned to reduce its prices or return the undue benefit availed alongwith interest to the recipient of the goods or services. If the undue benefit cannot be passed on to the recipient, it can be ordered to be deposited in the Consumer Welfare Fund. In extreme cases the National Antiprofitteering Authority can impose a penalty on the defaulting business entity and even order the cancellation of its registration under GST.

5. The constitution of the National Anti-profiteering Authority is expected to bolster consumer confidence and ensure all stakeholders reap the intended benefits of GST.

Assurance & Accounting

There has been a new notification on standard format for preparing balance sheet under IND AS. Exposure draft has also been issued for changes in IAS 16 , Property, Plant and Equipment

- **ICAI issues Guidance Note on Division II – Ind AS Schedule III to the Companies Act, 2013**
The Guidance Note provides guidance on each of the item of the Balance Sheet, Statement of Profit & Loss, Major differences in Division I and Division II to the Companies Act, 2013 besides providing illustrative format for standalone financial statements and consolidated financial statements etc. Few illustrations have also been included with a view to provide guidance on application of the principles provided in the Guidance Note.
- **ICAI issues Exposure Draft of Property, Plant and Equipment before intended Use (Proposed amendments to IAS 16)**
In this Exposure Draft, the International Accounting Standards Board (Board) proposes to amend IAS 16 Property, Plant and Equipment. The amendments would prohibit deducting from cost of an item of property, plant and equipment any proceeds from selling items produced while bringing that asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Instead, an entity would recognize those sales proceeds in profit & loss.

REGULATIONS

The government is in the process of simplifying the corporate laws by amending the existing companies act & labour laws for ease in doing business. The Lok Sabha has passed the Companies (Amendment) Bill, 2016 and the Ministry of Labour & Employment has requested the comments of stakeholders on the draft Labour code on social security, 2017. Further few changes have also been made in the laws relating to appointment of independent auditor, change of registered office, restoration of struck off companies. etc.

COMPANIES ACT

▪ EXEMPTIONS TO APPOINT INDEPENDENT DIRECTORS

The MCA vide its notification dated 5th July, 2017 has notified amendment in Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014. Now the following classes of unlisted public company shall not be required to appoint the independent directors:

- A joint venture;
- A wholly owned subsidiary; and
- A dormant company as defined under section 455 of the Act.

▪ NATIONAL COMPANY LAW TRIBUNAL (AMENDMENT) RULES, 2017

The MCA vide its notification dated 5th July, 2017 has notified amendment in National Company Law Tribunal Rules, 2016 by way of addition Rule 87A for filing appeal or application against the strike off order of the Registrar of Companies under section 252(3)(1) of the Companies Act, 2013.

▪ AMENDMENT TO THE SCHEDULE IV OF COMPANIES ACT, 2013

The MCA vide its notification dated 5th July, 2017 has notified amendment to the Schedule IV of the Companies Act, 2013. Now the independent directors who resigns or is removed from the Board of the company shall be replaced by a new independent director within three months (*earlier one hundred and eighty days*) from the date of such resignation or removal.

Further the independent directors shall hold at least one meeting in a financial year (*earlier year*), without the attendance of non-independent directors and members of management.

▪ CLARIFICATION ON APPLICABILITY OF EXEMPTION TO CERTAIN PRIVATE COMPANIES UNDER SECTION 143(3)(i) OF THE COMPANIES ACT, 2013

The MCA has clarified through General Circular No. 8/2017 dated July 25, 2017 that exemption for reporting on adequacy of internal financial control shall be applicable to those audit reports in

respect of financial statements pertaining to financial year commencing on or after April 1, 2016, which are made on or after the date of the said notification i.e 13th June, 2017.

▪ **COMPANIES (INCORPORATION) SECOND AMENDMENT RULES, 2017**

The MCA vide its notification dated 27th July, 2017 has notified amendment to the Companies (Incorporation) Rules, 2014. Now there will be no requirement of advertisement and notice to creditor/debenture holder/depositor in case of change of registered office from the jurisdiction of one registrar to another registrar within the same state. Further the Company had to file a declaration that it has not defaulted in payment of dues to its workmen and has either the consent of its creditors for the proposed shifting or has made necessary provision for the payment thereof along with another declaration that it will not seek change in the jurisdiction of the Court where cases for prosecution are pending.

Further the existing rule 30 for shifting of registered office from one state or Union Territory to another state has also been substituted with new rule 30 of Companies (Incorporation) Second Amendment Rules, 2017. The MCA has modified Form INC-23 (Application to the Regional Director for approval to shift the Registered Office from one state to another state or from jurisdiction of one Registrar to another Registrar within the same State) and Form INC-26 (Advertisement to be published in the newspaper for change of registered office of the company from one state to another).

▪ **HIGHLIGHTS OF THE COMPANIES (AMENDMENT) BILL, 2016**

The Lok Sabha has passed the Companies (Amendment) Bill, 2016 on 27th July, 2017. The key changes in the said bill as compared to Companies Act, 2013 are as follows:

SI No.	Particulars	Companies Act, 2013	Companies (Amendment) Bill, 2016
1.	Memorandum of Association	It must specify the objects for which the company is being incorporated, and other related matters.	It may contain general objects stating that the company may engage in any lawful act or activity or business. If the memorandum contains specific objects, it cannot pursue anything outside those objects.
2.	Private placement	Separate offer letter to be given to private individuals and a record of such offers must be filed with the	Removes the requirement of issuing a separate offer letter, and recording such offers with the

		Registrar of Companies.	Registrar of Companies.
3.	Cap on investments through layers	Investments in a company cannot be made through more than two layers of investment companies	Removes the restrictions on number of layers of investment companies
4.	Cap on layers of subsidiaries	Permits the central government to impose a cap on the layers of subsidiaries a company can have	Removes the restrictions on number of layers of subsidiaries of a company.
5.	Independent directors	Independent directors to have no monetary (pecuniary) relationship with the company.	Allows independent directors to have pecuniary interest up to 10% of their income.
6.	Beneficial interest	The term 'beneficial interest' is not defined.	Defines beneficial interest in a share to include, in respect of such shares: (i) the right to exercise all rights, or (ii) to receive dividend
7.	Subsidiary and Associate company	Subsidiary company is one in which a parent company holds more than 50% of its shares (includes equity and preferential shareholders). Associate company is one where another company holds at least 20% of its shares (includes equity and preferential shareholders).	Replaces the term shares with voting power. Preferential shareholders, who do not have voting power are excluded.
8.	Acceptance of deposits by companies	If a company accepts deposits from its members, it must provide deposit insurance and certifying that the company has not committed any default in the repayment of, or on the payment of interest on such deposits.	Omits the requirement of providing deposit insurance. Permits companies that have previously defaulted to accept deposits if five years have passed from such default, and the earlier dues have been paid.
9.	Managerial remuneration	If managerial remuneration exceeds prescribed limits, approval of the central government and shareholders must be obtained.	Omits the requirement of obtaining approval from the central government.
10.	Loans to directors	A company is not allowed to advance any loan to its directors or to any person in whom the director is interested.	Allows companies to advance a loan in relation to any person a director is interested in if the company passes a special resolution

11	Liability of auditors and audit firms for fraud	The partner and the firm will be jointly and severally liable for civil and criminal punishment.	In case of criminal punishment, only the partner who has participated in fraud will be liable. The audit firm shall only be liable for payment of fine.
12	Annual General Meeting of companies	AGM must be held either at the registered office of the company or at a place where the registered office of the company is situated.	Unlisted company may hold its AGM at any place in India, if members' consent is obtained in advance.

OTHER ACTS & REGULATIONS

- **LABOUR CODE ON SOCIAL SECURITY, 2017**

The Second National Commission on Labour has recommended that the existing Labour Laws should be broadly grouped into four or five Labour Codes on functional basis and the Ministry of Labour and Employment has drafted four Labour Codes on Wages; Industrial Relations; Social Security & Welfare; and Safety and Working Conditions respectively on Social Security 2017 by simplifying, amalgamating and rationalizing the relevant provisions of the 15 existing Central Labour Laws and placed on the website of the Ministry on 16.3.2017 and has invited comments of the stakeholders on the same.

TAX CALENDER

August 2017

	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	
Tue																							
1			5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
2																							26
3																							27
4																							28
5																							29
6																							30
7																							31
Date																							
Regulation																							
Obligation																							
7	Income Tax	- Last date of online payment of Tax deducted at source/Tax collected at source for the month of July, 2017																					
14	Income Tax	- Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of June, 2017																					
15	Provident Fund	- Last date of online payment of provident fund for the month of July, 2017																					
15	ESI	- Last date of online payment of ESI fund for the month of July, 2017																					
16	Income Tax	- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of July, 2017 has been paid without the production of a challan																					
16	Income Tax	- Quarter TDS certificate (In respect of tax deducted for payments other than salary) for the quarter ending June 30, 2017																					
17	DVAT	- Last date for filing of DVAT Return & CST Return for the quarter ended June, 2017																					
20	GST	- Last date of filing Form GSTR 3B and payment of GST for the month of July, 2017																					
		Form GSTR-3B and Form GST PMT-06, in case of payment of GST																					
30	Income Tax	- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of July, 2017																					
31	MPT	- Last date of payment & monthly return of Maharashtra PT (Annual Liability 50,000 or More)																					
		MTR-6/Form IIIIB																					

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