



BMC Advisors

Corporate Laws and Intellectual Property Rights Consultants



What's Inside

- MCA Update
- Income tax Update
- Excise Update
- DGFT Update
- SEBI
- IPR Update
- Custom Update
- RBI Update
- Service Tax
- GST Update

WEEKLY UPDATES

JULY 24TH, 2017-JULY 30TH, 2017

INDEX

MCA UPDATE	
Clarification regarding applicability of exemption given to certain private companies under section 143(3)(i) of the Companies Act 2013- reg. Companies (Incorporation) Second Amendment rules, 2017	4 5-7
SEBI	
Online Filing System for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)	8
Position Limits for Agricultural Commodity Derivatives	9-12
Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015-Amendments	13-15
RBI UPDATE	
Master Direction - Lending to Micro, Small & Medium Enterprises (MSME) Sector	16
Appointment of Statutory Central Auditors (SCAs) - modification of rest period	17
Exim Bank's Government of India supported Line of Credit of USD 24.54 million to the Government of the Republic of Ghana	18
INCOME TAX UPDATE	
Notification No. 66 /2017 [F.No.300196/9/2017-ITA-I] / SO 2277(E)	19
Notification No. 67 /2017 [F. No. 300196/7/2017-ITA-I]/ SO 2278(E)	20
[Notification No. 68 /2017 [F. No. 300196/01/2017-ITA-I] / SO 2279(E)	21
Notification No. 69/2017 [F. No. 300196/1/2016-ITA-I] / SO 2280(E)	22
Notification No. 70 /2017 [F.No.196/30/2013-ITA-I] / SO 2281(E)	23
Notification No. 71/2017 [F.No. 187/13/2015(ITA.I)] / SO 2320(E)	24
Notification No. 72/2017 [F. No. 187/13/2015-(ITA.I)]/ SO 2321(E)	25
Notification No.73/2017 [F. No.149/251/2015-TPL] / SO 2338(E)	26
Notification No. 74/2017 [F. No. 225/252/2017-ITA-II]	27
CUSTOM UPDATE	
Seeks to amend Notification No. 96/2008-Customs dated 13th August 2008 to insert S. No. 35-Republic of Niger and S. No. 36 -Republic of Guinea in the Schedule to the notification.	28
Regarding amendment in Notification no. 131/2016-Customs (N.T.) dated 31.10.2016 relating to AIRs of duty drawback	29
Extending the Single Window Interface for Facilitation of Trade (SWIFT) in Exports with WCCB to all EDI locations	30
Clarification regarding exports under claim for drawback in the GST scenario.	31-33
GST UPDATE	
Clarification regarding applicability of section 16 of the IGST Act, 2017, relating to zero rated supply for the purpose of Compensation Cess on exports - Regarding	34-36

MCA UPDATES

General Circular No. 08 /2017

F. No. 1/1/2014- CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R. P. Road, New Delhi.

Dated: 25th July, 2017

To

All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Sub: Clarification regarding applicability of exemption given to certain private companies under section 143(3) (i) of the Companies Act 2013- reg.

Sir,

Stakeholders have drawn attention of this Ministry to the serial no. 5 of notification No' G.S.R. 583(E) dated 13th June, 2017 which states that requirements of reporting under section 143(3) (i) of the Companies Act 2013 shall not apply to certain private companies as mentioned therein and have sought clarification w.r.t. the financial year(s) in respect of which the said exemption shall be applicable. The issue has been examined in the Ministry and it is hereby clarified that the exemption shall be applicable for those audit reports in respect of financial statements pertaining to financial years commencing on or after 1st April, 2016, which are made on or after the date of the said notification.

2. This issues with the approval of the Competent Authority.

Yours faithfully

(K.M.S. Narayanan)
Assistant Director
Tel:23387263

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i)]

**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION**

New Delhi, 27th July, 2017

G.S.R... (E)- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely: -

1. (1) These rules may be called the Companies (Incorporation) Second Amendment Rules, 2017.

(2) They shall come into force on the date of their publication in the official gazette.

2. In the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the principal rules), for rule 28, the following rule shall be substituted, namely:-

"28. Shifting of registered office within the same State. - (1) An application seeking confirmation from the Regional Director for shifting the registered office within the same State from the jurisdiction of one Registrar of Companies to the jurisdiction of another Registrar of Companies, shall be filed by the company with the Regional Director in **Form No. INC. 23** along with the fee and following documents,-

(a) Board Resolution for shifting of registered office;

(b) Special Resolution of the members of the company approving the shifting of registered office;

(c) a declaration given by the Key Managerial Personnel or any two directors authorized by the Board, that the company 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;

(d) a declaration not to seek change in the jurisdiction of the Court where cases for prosecution are pending;

(e) acknowledged copy of intimation to the chief Secretary of the state as to the proposed shifting and that the employees interest is not adversely affected consequent to proposed shifting".

3. In the principal rules, for rule 30, the following rule shall be substituted, namely:-

"30' Shifting of Registered office from one state or union Territory to another state

(1) An application under sub-section (4J) of section 13, for the purpose of seeking approval for alteration of memorandum with regard to the change of place of the registered office from one state Government of Union territory to another, shall be filed with the central Government in **Form No. INC. 23** along with the fee and shall be accompanied by the following documents, namely:-

(a) a copy of Memorandum of Association, with proposed alterations;

(b) a copy of the minutes of the general meeting at which the resolution authorising such alteration was passed, giving details of the number of votes cast in favour or against the resolution;

(c) a copy of Board Resolution or Power of Attorney or the executed vakalatnama, as the case may be.

(2) There shall be attached to the application, a list of creditors and debenture holders, drawn up to the latest practicable date preceding the date of filing of application by not more than one month, setting forth the following details, namely:-

(a) the names and address of every creditor and debenture holder of the company;

(b) the nature and respective amounts due to them in respect of debts, claims or liabilities:

Provided that the list of creditors and debenture holders, accompanied by declaration signed by the company Secretary of the company, if any, and not less than two directors of the company, one of whom shall be a managing director, where there is one, stating that (i) they have made a full enquiry into the affairs of the company and, having done so, have concluded that the list of creditors are correct, and that the estimated value as given in the list of the debts or claims payable on a contingency or not ascertained are proper estimates of the values of such debts and claims and that there are no other debts of or claims against the company to their knowledge, and

(ii) no employee shall be retrenched as a consequence of shifting of the registered office from one state to another state and also there shall be an application filed by the company to the Chief secretary of the concerned State Government or the Union territory.

(3) A duly authenticated copy of the list of creditors shall be kept at the registered office of the company and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same on payment of sum not exceeding ten rupees per page to the company.

(4) There shall also be attached to the application a copy of the acknowledgment of service of a copy of the application with complete annexure to the Registrar and Chief Secretary of the State Government or Union territory where the registered office is situated at the time of filing the application.

(5) The company shall, not more than thirty days before the date of filing the application in Form No. INC.23 -

(a) advertise in the **Form No.INC.26** in the vernacular newspaper in the principal vernacular language in the district and in English language in an English newspaper with the widest circulation in the state in which the registered office of the company is situated:

Provided that a copy of advertisement shall be served on the Central Government immediately on its publication.

(b) serve, by registered post with acknowledgement due, individual notice, to the effect set out in clause

(a) on each debenture-holder and creditor of the company; and

(c) serve, by registered post with acknowledgement due, a notice together with the copy of the application to the Registrar and to the Securities and Exchange Board of India, in the case of listed companies and to the regulatory body, if the company is regulated under any special Act or law for the time being in force.

(6) There shall be attached to the application a duly authenticated copy of the advertisement and notices issued under sub-rule (5), a copy each of the objection received by the applicant, and tabulated details of responses along with the counter response from the company received either in the electronic mode or in physical mode in response to the advertisements and notices issued under sub-rule (5).

(7) Where no objection has been received from any person in response to the advertisement or notice under sub-rule (5) or otherwise, the application may be put up for orders without hearing and the order either approving or rejecting the application shall be passed within fifteen days of the receipt of the application.

(8) Where an objection has been received,

(i) the Central Government shall hold a hearing or hearings, as required and direct the company to file an affidavit to record the consensus reached at the hearing, upon executing which, the Central Government shall pass an order approving the shifting, within sixty days of filing the application.

(ii) where no consensus is reached at the hearings the company shall file an affidavit specifying the manner in which objection is to be resolved within a definite time frame, duly reserving the original jurisdiction to the objector for pursuing its legal remedies, even after the registered office is shifted, upon execution of which the Central Government shall pass an order confirming or rejecting the alteration within sixty days of the filing of application.

(9) The order passed by the Central Government confirming the alteration may be on such terms and conditions, if any, as it thinks fit, and may include such order as to costs as it thinks proper:

Provided that the shifting of registered office shall not be allowed if any inquiry, inspection or investigation has been initiated against the company or any prosecution is pending against the company under the Act.

(10) On completion of such inquiry, inspection or investigation as a consequence of which no prosecution is envisaged or no prosecution is pending, shifting of registered office shall be allowed".

4. In the principal rules, for Form No, INC-23, the following form shall be substituted, namely:-

<http://www.mca.gov.in/Ministry/pdf/CompaniesIncorporationSecondAmendmentRules2017.pdf>

5. In the principal rules, for Form No.INC-26, the following form shall be Substituted, namely:-

<http://www.mca.gov.in/Ministry/pdf/CompaniesIncorporationSecondAmendmentRules2017.pdf>

Note: - Strike off whichever is not applicable.

[F. No. 1/13/2013 CL-V]
AMARDEEP SINGH BHATIA, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary Part II, Section 3, Sub-section (i) *vide* number G.S.R. 250(E) dated 31st March, 2014 and subsequently amended *vide* the following notifications:-

Serial Number	Notification Number	Notification Date
1	G.S.R. 349 (E)	01 -05-2015
2	G.S.R. 442(E)	29-05-2015
3	G.S.R. 99 (E)	22-01-2016
4	G.S.R. 336 (E)	23-03-2016
5	G.S.R. 743 (E)	27-07-2016
6	G.S.R. 936 (E)	01-10-2016
7	G.S.R. 1184 (E)	29-12-2016
8	G.S.R. 70(E)	25-01-2017

SEBI UPDATES

CIRCULAR

SEBI/HO/IMD/DF1/CIR/P/2017/83

July 24, 2017

**All Registered Infrastructure Investment Trusts
All Registered Real Estate Investment Trusts**

Dear Sir/Madam,

Sub: Online Filing System for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)

1. In order to facilitate ease of operations in terms of applying for registration, reporting and various compliances under SEBI (Real Estate Investment Trusts) Regulations, 2014 and SEBI (Infrastructure Investment Trusts) Regulations, 2014, SEBI has introduced an online system for filings related to REITs and InvITs. The online system can be used for application for registration, reporting and filing under the provision of aforesaid Regulations.
2. All applicants desirous of seeking registration as REITs or InvITs are now required to submit their applications online only, through SEBI Intermediary Portal at <https://siportal.sebi.gov.in>. Furthermore, all SEBI registered REITs and InvITs are now required to file/ submit/ apply for any request, as may be required under the provision of aforesaid Regulations & Circulars issued thereunder, through the online system only. The aforesaid online filing system has been made operational.
3. Link for SEBI Intermediary Portal is also available on SEBI website -www.sebi.gov.in. In case of any queries and clarifications, users may refer to the manual provided in the portal or contact the Portal Helpline as specified in the manual.
4. Existing SEBI registered InvITs have already been advised to activate their online accounts.
5. 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.

Yours faithfully,

Richa G. Agarwal
Deputy General Manager
Investment Management Department
Tel No.022-2644 9596
Email id -richag@sebi.gov.in

CIRCULAR

SEBI/HO/CDMRD/DMP/CIR/P/2017/84

July 25, 2017

To,

The Managing Directors / Chief Executive Officers
All National Commodity Derivatives Exchanges

Sir / Madam,

Sub.: Position Limits for Agricultural Commodity Derivatives

1. SEBI vide its circular no. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016 had updated and consolidated norms with regard to position limits of commodity derivatives including commodity-wise numerical value of overall client level open position limits.
2. SEBI has received feedback from the stakeholders that current numerical limits applicable for agricultural commodity derivatives are inadequate and not in consonance with the deliverable supply of the commodity. This circular is hereby issued in continuation of the above mentioned SEBI circular with an objective to outline a principle based methodology for revising the commodity-wise numerical value of overall client level open position limits for agricultural commodities with reference to the 'deliverable supply' of the such commodity available in the country during any specific year.
3. After due consultation with various stakeholders and on the basis of recommendations of CDAC (Commodity Derivatives Advisory Committee), following framework is hereby being prescribed for determination of numerical value of overall client level open position limits for agricultural commodities:

3.1 **Categorization of commodities**: In any given year, based on the average of production data and import data of past five years on a rolling basis and keeping in view various extraneous factors that affect the trading in derivatives, the agricultural commodities shall be classified into three categories viz., sensitive, broad and narrow as below:-

3.1.1 **Sensitive Commodity**: An agricultural commodity shall be classified as a sensitive commodity if it:

3.1.1.1 is prone to frequent Government/External interventions. These interventions may be in the nature of stock limits, import/export restrictions or any other trade related barriers; or

3.1.1.2 has observed frequent instances of price manipulation in past five years of derivatives trading.

3.1.2 **Broad Commodity**: An agricultural commodity shall be classified as 'Broad Commodity' if it is not 'Sensitive Commodity' and satisfies following criteria;

3.1.2.1 Average deliverable supply for past five year is at least 10 lakh Metric Ton (MT) in quantitative term and is at least INR 5,000 Crore in monetary term.

3.1.3 **Narrow Commodity**: An agricultural commodity which is not falling in either of the above two categories, viz 'Sensitive' or 'Broad' commodity, shall be classified as 'Narrow Commodity'.

3.2 Deliverable Supply:

The deliverable supply for an agricultural commodity would be "**Production + Imports**"

3.3. Client Level Numeric Position Limits:

Numerical value of overall client level open position limits for each commodity shall be calculated from 'deliverable supply' available in a particular year, as per its category as given below:

Category of Commodity	Position limits
Broad	1% of the deliverable supply
Narrow	0.5% of the deliverable supply
Sensitive	0.25% of the deliverable supply

3.3.1. The numbers arrived based upon above formula should be rounded off downward to appropriate number of zeroes.

3.4. Yearly Categorization of commodities and computation of position limits:

3.4.1. All the national commodity derivatives exchanges shall jointly classify agricultural commodities into the afore-stated three categories on annual basis as per the principles indicated at para No.3.1 above.

3.4.2. Whenever an agricultural commodity of 'narrow' category is required to be re-categorized to 'broad' in subsequent years, such re-categorization may be possible only if both, average deliverable supply of such commodity for the past five years and monetary value thereof as mentioned at Para '3.1.2.1' exceeds by more than 5%.

3.4.3. For determination of 'deliverable supply' of various agricultural commodities for each year, the national commodity derivatives exchanges shall take into account the latest production figures of such commodities as annually declared by relevant government sources or from the latest 'third advance estimates' of agricultural commodities published by the Ministry of agriculture or any other yearly estimates/assessments of production and imports made by any governmental agencies such as Ministry of Agriculture, Ministry of Textiles, Ministry of Commerce, different statutory boards/associations etc., concerned with different agricultural commodities. The national commodity derivatives exchanges shall indicate the sources from which the production and import / export data have been obtained for the purpose of determination of 'deliverable supply' of different agricultural commodities.

3.4.4. Every year, for each agricultural commodity that is being traded in the derivatives market, all national commodity derivatives exchanges shall jointly complete the exercise of determination of 'deliverable supply, categorization/re-categorization of commodities and computation of numerical value of position limits. Numerical values of position limits for any agricultural commodity shall be revised only if the computation results in a revision in the value by at least 5% compared to previous year's limits. Exchanges shall, after prior intimation to SEBI, notify such details to the market through their respective websites sufficiently in advance and latest by **31st of July** (unless extended by SEBI under exceptional circumstances) of every year and revised limits shall become applicable for all running contracts with effect from **1st of September** of every year.

3.4.5. However for the current year, given the paucity of time, all the national commodity derivatives exchanges are directed to complete this exercise at earliest and notify the same to the market within 20 days of the circular under prior intimation to SEBI and the revised limits shall become applicable for all running contracts with effect from October 1, 2017.

3.4.6. In the interest of trade and public, SEBI may exercise its due discretion in modifying the aforesaid position limits at any time during the year.

4. **Member Level Position Limits for Agricultural Commodities:** As already prescribed in Para '5.3' of SEBI Circular dated September 27, 2016, the overall member level position limits for an agricultural commodity across all the contracts shall be 10 times the numerical value of client level position limit or 15% of the market-wide open interest, whichever is higher.

5. **Exchange-wide Position Limit for Agricultural Commodities:**

SEBI vide paragraph '5.5' of circular dated September 27, 2016 has prescribed that Exchange-wide gross position limit shall be capped at 50% of the annual estimated production and imports of the commodity. This paragraph '5.5' of the said earlier circular shall be substituted by the following paragraph:-

"For any agricultural commodity, the overall Exchange-wide gross position limit on open interest shall be 50% of its 'deliverable supply' determined for the relevant year, which shall also be jointly notified by Exchanges along with client level numerical limits."

6. **Clubbing of position limits:** Broad guidelines for clubbing of open positions have been prescribed vide Para '6' of SEBI Circular dated September 27, 2016. In this regard all national commodity derivatives exchanges are directed to jointly formulate a uniform guidelines and disclose the same to the market within 30 days from the date of this circular.
7. There is no change in norms with regard to near month position limits, computation of open positions, monitoring of position limits or any other norm earlier prescribed by SEBI for position limits.
8. The provisions of this circular shall come into effect from the date of this Circular.

9. The Exchanges are advised to:
- i take steps to make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the same.
 - ii bring the provisions of this circular to the notice of the members of the Exchange and also to disseminate the same on their website.
 - iii. communicate to SEBI, the status of the implementation of the provisions of this circular.
10. This circular is issued in exercise of 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.
11. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars", "Info for Commodity Derivatives"

Yours faithfully,

Vikas Sukhwai
Deputy General Manager
Division of Market Policy
Commodity Derivatives Market Regulation Department
Email: vikass@sebi.gov.in

CIRCULAR

SEBI/HO/CIR/P/2017/85

July 27, 2017

To,

1. All Recognised Stock Exchanges/Clearing Corporations in International Financial Services Centre (IFSC)
2. All Recognised Stock Exchanges, Clearing Corporations and Depositories
3. All Registered Intermediaries

Dear Sir / Madam,

Subject: Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015–Amendments

1. Kindly refer to SEBI (IFSC) Guidelines, 2015 notified by SEBI on March 27, 2015.
2. In order to further streamline the operations at IFSC, based on the internal discussions and consultations held with the stakeholders, it has been decided to amend provisions of the aforesaid guidelines, which are as follows:

2.1. Eligibility and Shareholding in Stock Exchanges, Clearing Corporations and Depositories

Clauses 4 (1), (2) and (3) of SEBI (IFSC) Guidelines, 2015 which specify the eligibility and shareholding limit for stock exchanges, clearing corporations and depositories desirous of operating in IFSC are being replaced as follows:

“4. (1) Eligibility and shareholding limit for stock exchanges desirous of operating in IFSC:

Any Indian recognised stock exchange or any recognized stock exchange of a foreign jurisdiction shall form a subsidiary to provide the services of stock exchange in IFSC where in at least fifty one per cent. of paid up equity share capital shall be held by such stock exchange and the remaining share capital shall be held by the following:

- i) any other stock exchange,
- ii) a depository,
- iii) a banking company,
- iv) an insurance company,
- v) commodity derivatives exchange, whether Indian or of foreign jurisdiction and
- vi) a public financial institution of Indian jurisdiction, provided that any one of the aforesaid entities may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent of the paid up equity share capital of such stock exchange.

(2) Eligibility and shareholding limit for clearing corporations desirous of operating in IFSC:

Any Indian recognised stock exchange or clearing corporation, or, any recognized stock exchange or clearing corporation of a foreign jurisdiction shall form a subsidiary to provide the services of clearing corporation in IFSC wherein at least fifty one per cent of paid up equity share capital shall be held by such stock exchange or clearing corporation, and the remaining share capital shall be held by the following:

- i) any other stock exchange,
- ii) a clearing corporation,
- iii) a depository,
- iv) a banking company,

v) an insurance company, whether Indian or of foreign jurisdiction and
vi) a public financial institution of Indian jurisdiction, provided that any one of the aforesaid entities may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent. of the paid up equity share capital of such clearing corporation.

(3) (a) Eligibility and shareholding limit for foreign depositories desirous of operating in IFSC:

Any regulated depository of a foreign jurisdiction shall form a subsidiary to provide the depository services in IFSC where atleast fifty one per cent of paid up equity share capital is held by such depository and remaining shares may be offered to any other registered depository or recognised stock exchange or clearing corporation, whether Indian or of foreign jurisdiction.

(b) Setting up of IFSC Depositories Services by Indian registered depositories:

Any Indian registered depository may set up a branch -IFSC Depository Services (IDS) at IFSC. The interested depositories shall be required to obtain prior approval of the Board for setting up an IDS. Such Indian depository shall be required to ring fence its domestic operations, financially, operationally and technologically, from its operations at IFSC."

2.2. Governance of Stock Exchanges

As per Clause 6 (4) of SEBI (IFSC) Guidelines which stipulates the governance structure of depositories, stock exchanges and clearing corporations is hereby amended to read as follows:"

Provisions of Chapter IIA of Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 and Chapter V of Securities Contracts (Regulation) (Stock Exchanges And Clearing Corporations)

Regulations 2012 shall not apply to depositories, stock exchanges, clearing corporations in IFSC, as the case may be:

Provided that depositories, stock exchanges, clearing corporations operating in IFSC shall adopt the broader principles of governance prescribed by International Organization of Securities Commissions (IOSCO) and Principles for Financial Market Infrastructures (PFMIs) and such other governance norms as may be specified by the Board, from time to time. Further, the parent depository/stock exchange/clearing corporation shall be responsible for the governance of such depository, stock exchange and clearing corporation in IFSC at all times."

2.3. Intermediaries in IFSC

Clause 8 of SEBI IFSC Guidelines which specifies that any recognised entity or entities desirous of operating in IFSC as an intermediary, may form a company to provide such financial services relating to securities market has been amended as follows:

"8. (1) Any SEBI-registered intermediary (except trading member or clearing member) or its International associates in collaboration with such SEBI-registered intermediary may provide financial services relating to securities market, in IFSC, without forming a separate company, subject to the prior approval of the Board.

(2) Trading members and clearing members desirous of operating in IFSC as an intermediary, shall form a company to provide such financial services relating to securities market, as permitted by the Board."

3.This circular is being issued in exercise of 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.

Yours faithfully,

Bithin Mahanta
Deputy General Manager
Market Regulation Department
Email: bithinm@sebi.gov.in



RBI UPDATES

RBI/FIDD/2017-2018/56

Master Direction FIDD.MSME & NFS.12/06.02.31/2017-18

July 24, 2017

**The Chairman / Managing Director / Chief Executive Officer
All Scheduled Commercial Banks
(Excluding Regional Rural Banks)**

Dear Sir/Madam,

Master Direction - Lending to Micro, Small & Medium Enterprises (MSME) Sector

As you are aware, the Reserve Bank of India has, from time to time, issued a number of guidelines / instructions / circulars / directives to banks in the matters relating to lending to Micro, Small & Medium Enterprises Sector. The Master Direction enclosed incorporates the updated guidelines / instructions / circulars on the subject. The list of circulars consolidated in this Master Direction is indicated in the Appendix. The Direction will be updated from time to time as and when fresh instructions are issued. This Master Direction has been placed on the RBI website at www.rbi.org.in

2. Please acknowledge receipt.

Yours faithfully

(Uma Shankar)
Chief General Manager- in- Charge

For master directions and appendix please find below link:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11060&Mode=0>

July 27, 2017

The Chief Executive Officers
All Indian Private Sector Banks/ All Foreign Banks operating in India

Dear Sir/Madam,

Appointment of Statutory Central Auditors (SCAs) - modification of rest period

Please refer to DBS.No.ARS.BC.8/08.91.001/2000-2001 dated January 30, 2001 addressed to private sector banks in terms of which, inter alia, an audit firm, subject to its fulfilling the prescribed eligibility norms will be allowed to continue as the SCA for a particular bank for a period of four years and, thereafter, the said firm will be compulsorily rested for a period of two years.

2. It has been observed in a review of the appointment of statutory auditors in private sector/foreign banks that, in some cases, the same audit firm was reappointed after a gap of two years' rest. In a few other private sector/foreign banks, the immediately preceding statutory auditor firm was appointed on completion of the four year tenure of the current statutory auditor. The statutory central audit responsibility in such banks thus remained confined to two audit firms which were appointed on a cyclical basis.

3. The Rest and Rotation Policy in appointment of SCAs for banks has been mandated in order that audit functions are looked at afresh, as a new team is likely to examine the issues in a bank from a different perspective. The policy also aims to deter the auditors and auditee from establishing a comfortable relationship that may lead to compromise in strict adherence to audit principles.

4. To address the above and ensure that rest and rotation policy is followed in letter and spirit, it has been decided that, henceforth, an audit firm, after completing its four year tenure in a particular private/foreign bank, will not be eligible for appointment as SCA of the same bank for a period of six years.

5. The above guidelines are also applicable to foreign banks.

Yours faithfully

(Prabhakar Jha)
General Manager

July 27, 2017

To
All Category - I Authorised Dealer Banks

Madam / Sir,

**Exim Bank's Government of India supported Line of Credit of USD 24.54 million to the
Government of the Republic of Ghana**

Export-Import Bank of India (Exim Bank) has entered into an agreement on November 22, 2016 with the Government of the Republic of Ghana for making available to the latter, a Government of India supported Line of Credit (LoC) of USD 24.54 million (USD Twenty four million and five hundred forty thousand only) for the purpose of financing sugarcane development and irrigation project in the Republic of Ghana. The credit is available for financing export of eligible goods and services from India for the purpose of financing sugarcane development and irrigation project in terms of the agreement and those which are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this agreement. The goods include plant, machinery and equipment and services include consultancy services. Out of the total credit by Exim Bank under this agreement, goods and services of the value of at least 75 per cent of the contract price shall be supplied by the seller from India and the remaining 25 per cent of goods and services may be procured by the seller for the purpose of the eligible contract from outside India.

2. The Agreement under the LoC is effective from July 07, 2017. Under the LoC, the terminal utilization period is 60 months after the scheduled completion date of the project.

3. Shipments under the LoC will have to be declared on Export Declaration Form as per instructions issued by the Reserve Bank from time to time.

4. No agency commission is payable for export under the above LoC. However, if required, the exporter may use its own resources or utilize balances in its Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer Category- I (AD Category- I) banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission.

5. AD Category- I banks may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the LoC from the Exim Bank's office at Centre One, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 or from their website www.eximbankindia.in

6. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,
(J K Pandey)
Chief General Manager

INCOME TAX UPDATES

MINISTRY OF FINANCE
(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 20th July, 2017

S.O. 2277(E). – In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961(43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Haryana Electricity Regulatory Commission', a commission constituted under the Haryana Electricity Reform Act, 1997 (Haryana Act No. 10 of 1998), in respect of the following specified income arising to that body, namely:-

- (a) grants and loans made by the Government of Haryana;
- (b) fees received under the Electricity Act, 2003 (36 of 2003); and
- (c) interest earned on government grants and loans and fees received under the Electricity Act, 2003 (36 of 2003).

2. This notification shall be effective subject to the conditions that Haryana Electricity Regulatory Commission:-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the said Act.

3. This notification shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-22.

[Notification No. 66 /2017, F.No.300196/9/2017-ITA-I]
DEEPSHIKHA SHARMA, Director

**MINISTRY OF FINANCE
(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 20th July, 2017

S.O. 2278(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'National Council of Science Museums', Kolkata, an autonomous body established under the Ministry of Culture, Government of India, in respect of the following specified income arising to the Council, namely:—

- a) Amount received in the form of grants-in-aid and subsidies from Government of India;
- b) Fees or subscription by sale of tickets;
- c) Charges for maintenance recovered for use of auditorium and other public facilities for scientific and educational purposes; and
- d) Income arising or derived by way of interest received from investment.

2. This notification shall be effective subject to the conditions that National Council of Science Museums, Kolkata,—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020 and 2020- 2021.

[Notification No. 67 /2017/F. No. 300196/7/2017-ITA-I]
DEEPSHIKHA SHARMA, Director

**MINISTRY OF FINANCE
(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 20th July, 2017

S.O. 2279(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'National Biodiversity Authority', Chennai, an authority established under the Biological Diversity Act, 2002 (18 of 2003), in respect of the following specified income arising to that Authority, namely:—

- (a) amount received in the form of Grant-in-aid from Government of India;
- (b) benefit sharing fee and royalty received;
- (c) amount received in form of Application fee;
- (d) amount received in form of Interest; and
- (e) amount received in form of Penalty.

2. This notification shall be effective subject to the conditions that National Biodiversity Authority, Chennai,—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be deemed to have been applied for the financial year 2016-2017 and shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

[Notification No. 68 /2017/F. No. 300196/01/2017-ITA-I]
DEEPSHIKHA SHARMA, Director

Explanatory Memorandum : It is certified that no person is being adversely affected by giving retrospective effect to this notification.

**MINISTRY OF FINANCE
(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 20th July, 2017

S.O. 2280(E). – In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the Assam State Biodiversity Board, a board established by the Government of Assam, in respect of the following specified income arising to that board, namely: –

- (a) Grants received by the Board from Assam State Government and from National Biodiversity Authority;
- (b) fee received by the Board for granting access to biological resources by applicants;
- (c) fee/ Consultancy charges received from organizations for carrying out field studies/research works;
- (d) interest earned on the Grants in aid provided to the Board by National Biodiversity Authority and Government of Assam; and
- (e) interest earned from Term deposits with bank.

2. This notification shall be effective subject to the conditions that Assam State Biodiversity Board, –

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be deemed to have been applied for the financial Years 2015-16, 2016-17 and shall apply with respect to financial years 2017-18, 2018-19 and 2019-20.

[Notification No. 69/2017/F. No. 300196/1/2016-ITA-I]
DEEPSHIKHA SHARMA, Director

Explanatory Memorandum : It is certified that no person is being adversely affected by giving retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 20th July, 2017

S.O. 2281(E). – In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Noida Special Economic Zone Authority, Noida', an authority constituted under the Special Economic Zone Act, 2005 of the Government of India, in respect of the following specified income arising to that authority, namely:-

- a) lease rent (charged as per Government prescribed rate);
- b) interest from banks on FDRs;
- c) receipts from I-Card and Permit fees;
- d) allotment Fee in respect of Standard Design Factories(SDF);
- e) auction/Bid amount in respect of Plots/Buildings which fall vacant;
- f) transfer charges in respect of Plot/Building;
- g) fee for issue of Form-I for exemption of Building Plans;
- h) processing fee for approval of Building Plans;
- i) site usage charges from Service providers; and
- j) license fee for allotment of Staff Quarters to the staff.

2. This notification shall be effective subject to the conditions that Noida Special Economic Zone Authority, Noida

- (a) shall not engage in any commercial activity;
- (b) its activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) it files return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

3. This notification shall be deemed to have been applied for the Financial Year 2013-2014, 2014-2015, 2015-2016, 2016-2017 and shall apply with respect to the Financial Year 2017-2018.

[Notification No. 70 /2017, F.No.196/30/2013-ITA-I]
DEEPSHIKHA SHARMA, Director

Explanatory Memorandum :- It is certified that no person is being adversely affected by giving retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 25th July, 2017

(Income-tax)

S.O. 2320 (E).—In exercise of the powers conferred under sub-section (2) of section 28 read with section 59 of the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988) the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number S.O.1621(E), dated the 18th May, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 18th May, 2017, namely :—

In the said Notification, in the Schedule, —

- (i) against serial number 18, in column (5), the brackets, letters, and words “(xx) Pithoragarh (xxi) Udham Singh Nagar (xxii) Bageshwar (xxiii) Nainital (xxiv) Almora (xxv) Champawat” shall be omitted;
- (ii) against serial number 19, in column (5), after the word “Shamli”, the brackets, letters and words “(xxxviii) Pithoragarh (xxxix) Udham Singh Nagar (xl) Bageshwar (xli) Nainital (xlii) Almora (xliii) Champawat” shall be inserted;
- (iii) against serial number 23, in column (5), after the words “Principal Chief Commissioner of Income-tax, Pune”, the words “; Chief Commissioner of Income-tax, Pune” shall be inserted.

[Notification No. 71/2017/F. No. 187/13/2015(ITA.I)]
DEEPSHIKHA SHARMA, Director

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 25th July, 2017

(INCOME TAX)

S.O. 2321(E). – In exercise of the powers conferred by sub-section (1) and (2) of section 120 of the Income tax Act, 1961 (43 of 1961), read with section 6 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) the Central Board of Direct Taxes hereby makes the following amendment in the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number S.O. 1590(E), dated the 16th May, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 16th May, 2017, namely:-

In the said Notification, in the Schedule, –

(i) against serial number 11, in column (6) –

(a) the following entries occurring from serial numbers (xx) to (xxv) shall be omitted, namely:-

“(xx) Pithoragarh
(xxi) Udham Singh Nagar
(xxii) Bageshwar
(xxiii) Nainital
(xxiv) Almora
(xxv) Champawat”

(b) after the serial number “(xxxvii)” the following serial numbers shall be inserted, namely:-

“(xxxviii) Pithoragarh
(xxxix) Udham Singh Nagar
(xl) Bageshwar
(xli) Nainital
(xlii) Almora
(xlili) Champawat”;

(ii) against serial number 14, in column (6), after the words “Principal Chief Commissioner of Income-tax, Pune”, the words “; Chief Commissioner of Income-tax, Pune” shall be inserted.

[Notification No. 72/2017/ F. No. 187/13/2015-(ITA.I)]
DEEPSHIKHA SHARMA, Director

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 26th July, 2017

(INCOME-TAX)

S.O. 2338(E).—In exercise of the powers conferred by Explanation 5 to clause (19AA) of section 2 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby amends the notification of the Government of India, Ministry of Finance number S.O. 3204(E) published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii), dated the 14th October, 2016, namely: –

2. In the said notification, –

- (a) in clause (i), for the words “to transfer”, the words “by way of transfer of” shall be substituted;
- (b) in clause (ii) for the words “public sector company”, the words, figures, bracket “public sector company on the appointed date indicated in the scheme approved by the Appellate Tribunal constituted under section 410 of the Companies Act, 2013 (18 of 2013) in this behalf” shall be substituted.

[Notification No.73/2017, F. No.149/251/2015-TPL]

PRAVIN RAWAL, Director (Tax Policy & Legislation)

Note: Previous notification was published in the gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) dated the 14th October, 2016 vide S.O. 3204(E) dated the 14th October, 2016.

**TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART-II, SECTION 3,
SUB-SECTION (ii)**

Notification No. 74/2017

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

New Delhi, the 26th of July, 2017

NOTIFICATION

In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of Section 138 of the Income -tax Act, 1961, the Central Government, hereby specifies Joint Secretary, Ministry of Corporate Affairs, Government of India, for purposes of the said clause.

This Notification has to be read with order under section 138(1)(a) of Income-tax Act, 1961 dated 26.07.2017 in file of even number, issued by the Central Board of Direct Taxes, notifying Principal Director General of Income-tax (Systems) as the 'designated authority' for furnishing the 'bulk information' on certain identified parameters to the above authority, being notified.

(Rohit Garg)
Director - (ITA. II), CBDT

(F. No. 225/252/2017-ITA.II)

CUSTOM UPDATES

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,
SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification
No. 68/2017-Customs

New Delhi, 27th July, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 96/2008-Customs, dated the 13th August, 2008, published vide number G.S.R. 590 (E), dated the 13th August, 2008, namely:-

In the said notification, in the Schedule, after serial number 34 and the entries relating thereto, the following serial numbers and entries shall be added, namely:-

S.No.	Name of Country
"35	Republic of Niger
36	Republic of Guinea".

[F. No. 354/189/2005-TRU (Vol. II)]

(Mohit Tewari)
Under Secretary to the Government of India

Note: The principal notification No. 96/2008-Customs, dated the 13th August, 2008 was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide number G.S.R. 590(E), dated the 13th August, 2008 and was last amended by notification No. 46/2016-Customs, dated the 23rd August, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 813(E), dated the 23rd August, 2016.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 73/2017-CUSTOMS (N.T.)

New Delhi, the 26th July, 2017

G.S.R. 954(E). – In exercise of the powers conferred by sub-sections (2) and (3) of section 75 of the Customs Act, 1962 (52 of 1962) and sub-section (2) of section 37 of the Central Excise Act, 1944 (1 of 1944), read with rules 3, 4 and 5 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, the Central Government hereby amend the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 131/2016 - Customs (N.T.), dated the 31st October, 2016, published *vide* number G.S.R. 1018 (E), dated the 31st October, 2016, namely:-

In the said notification, under the heading 'Notes and conditions', for serial number 12A, the following shall be substituted, namely:-

“(12A) The rates and caps of drawback specified in columns (4) and (5) of the said Schedule shall be applicable to export of a commodity or product if the exporter satisfies the following conditions, namely:-

(a) (i) the exporter shall declare, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that no input tax credit of the central goods and services tax or of the integrated goods and services tax has been and shall be availed on the export product or on any of the inputs or input services used in the manufacture of the export product, or

(ii) if the goods are exported on payment of integrated goods and services tax, the exporter shall declare that no refund of integrated goods and services tax paid on export product shall be claimed;

(b) the exporter shall declare, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that the exporter has not carried forward and shall not carry forward the amount of Cenvat credit on the export product or on the inputs or input services used in the manufacture of the export product, under the Central Goods and Services Tax Act, 2017 (12 of 2017).”

2. The notification shall be deemed to have come into force on the 1st July, 2017.

[F. No. 609/64/2017-DBK]

(Anand Kumar Jha)
Under Secretary to the Government of India

Note: The principal notification No. 131/2016-Customs (N.T.), dated the 31st October, 2016 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 31st October, 2016 *vide* number G.S.R. 1018 (E), dated the 31st October, 2016 and was last amended *vide* notification No. 59/2017-Customs (N.T.), dated the 29th June, 2017 *vide* number G.S.R. 724(E), dated the 29th June, 2017

F.No.450/101/2016-Cus-IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise and Customs)

New Delhi, dated the 25th July, 2017

To,

All Chief Commissioners of Customs / Customs (Preventive),
All Chief Commissioners of Customs and Central Excise/ GST,
All Commissioners of Customs / Customs (Preventive),
All Commissioners of Customs and Central Excise/GST.

Madam/ Sir,

Subject: Extending the Single Window Interface for Facilitation of Trade (SWIFT) in Exports with WCCB to all EDI locations- reg.

Vide Circular 1/2017-Customs dated 4.1.17, SWIFT was extended on export side to online clearance for CITES/ wild life items on pilot basis at Chennai, Mumbai, Delhi Air Cargo Complexes. Under this procedure, Shipping Bills filed on ICEGATE or through the Service Centre were referred online to the Wild Life Crime Control Bureau (WCCB) for a 'No Objection Certificate' (NOC), if any required for CITES/wildlife items.

It has now been decided to extend online referral of WCCB to all Customs EDI locations with effect from 31st July, 2017. The mapping of Customs EDI locations to WCCB offices shall remain the same as it was for imports. The Local System Managers of ICES shall map the roles in ICES to the respective officers from WCCB. These roles have been defined as part of the SW NOC module in Exports and are outlined in the user manual developed by DG (Systems).

2. Chief Commissioners of Customs/Central Excise/GST are requested to sensitize staff, other agencies and customs brokers working under their jurisdiction to ensure smooth implementation of the SWIFT online clearance module with WCCB in exports. Difficulty faced, if any, may be brought to the notice of the Board at the earliest. Further, a suitable Public Notice may be issued for the information of the Trade with a copy to the local offices of the Agencies.

Yours faithfully

(Zubair Riaz)
Director (Customs)

F. No. 609/64/2017-DBK
Government of India
Ministry of Finance,
Department of Revenue
Central Board of Excise & Customs

New Delhi, dated 27th July, 2017

To,
Principal Chief Commissioners / Principal Directors General,
Chief Commissioners / Directors General,
Principal Commissioners / Commissioners,
all under CBEC

Madam/Sir,

Sub: Clarification regarding exports under claim for drawback in the GST scenario.

As you are aware, the higher All Industry Rates (AIRs) under Duty Drawback scheme viz. rates and caps available under columns (4) and (5) of the Schedule of All Industry Rates of Duty Drawback have been continued for a transition period of three months i.e. 1.7.2017 to 30.9.2017 (Circular No. 22/2017-Customs dated 30.6.2017).

2. Various issues have been highlighted by field formations and exporters regarding the requirement of a certificate to be obtained from the jurisdictional GST officer prescribed vide Note and Condition 12A of Notification 131/2016-Cus (N.T.) dated 31.10.2016 as amended by Notification 59/2017-Cus (N.T.) dated 29.6.2017. The certificate aimed to ensure that there was no double neutralisation of taxes by way of credit/refund and drawback. However, in view of factors such as absence of clarity about jurisdictional GST officer, time lag between exports and the requisite returns to be filed under GST laws, etc., the said certificate from GST officer may not be available immediately at the time of export.

3. Keeping in mind the above difficulties, the Government has amended Note and Condition 12A of Notification 131/2016-Cus (N.T.) dated 31.10.2016 by Notification 73/2017- Cus (N.T.) dated 26.7.2017 and dispensed with the requirement of the certificate from GST officer to claim higher rate of drawback. To facilitate exports, the higher rate of drawback can be claimed on the basis of self-declaration to be provided by exporter in terms of revised Note and Condition 12A of aforesaid Notification.

4. Since Notes and Conditions of Notification No. 131/2016-Cus (NT) dated 31.10.2016 (as amended) are integral part of the rates of drawback given under the Schedule to said Notification, accordingly in terms of the Section 75(3) of the Customs Act, 1962 and Rule 5(2) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, it may be noted that the changes made in Note and Condition 12A shall be applicable w.e.f. 1.7.2017 itself. Thus, exports which have been made from 1.7.2017 onwards shall be governed by the revised Note and Condition 12A. For all exports made w.e.f. 1.7.2017 for which higher rate of drawback is claimed, exporter has to submit the self-declaration in the format attached. This format is also being suitably included in the EDI shipping bill. In respect of exports that have already been made, exporters may submit a single

declaration regarding the export products covered in past shipping bills for which let export order has been given from 1.7.2017 onwards. This shall be irrespective of any certificate or declaration, if any, given earlier.

5. Another aspect that may be noted is that there could be cases where export goods had been cleared from factory, warehouse, etc. prior to 1.7.2017 but let export order has not been issued before 1.7.2017. Such goods are not supplies under GST and accordingly, said Note and Condition 12A is not applicable. For such goods, the declaration from exporter or certificate from the then Central Excise officer as applicable in terms of Note and Condition 12 of said Notification No. 131/2016-Customs (NT) shall continue.

6. As part of audit checks, the need for regular sample checking of the veracity of declarations accepted for disbursing AIR drawback claims has been highlighted in Board's instruction F. No. 603/01/2011-DBK dated 11.10.2013. The said instruction is reiterated for the purpose of audit checks for above cited self-declarations. Directorate General of Audit (Central Taxes) is also being asked to have the declarations given by exporters about non-availment of ITC/refund etc. in respect of exports under drawback verified at the time of audit of these units/exporters. These checks will thus ensure that there is no double neutralisation of taxes by simultaneous availment of credit/refund and drawback.

7. In order to further facilitate exporters, it may be ensured that all pending drawback claims are disposed of on priority and zero pendency be maintained. Supplementary claims whenever filed should also be processed on priority.

8. Wide publicity on these aspects may be given by way of issuance of trade notice and field officers also should be sensitised.

Yours faithfully,

(Dipin Singla)
OSD (Drawback)
Tel: 23341480

Self-declaration for claiming higher rate of AIR of duty drawback under column (4) and (5) of the AIR Schedule under Notification No. 131/2016-Customs (N.T.) dated 31.10.2016 (as amended)

I/We, M/s., IEC No. and address hereby declare that in respect of export products covered under Shipping Bill Nos. dated on which higher rate of drawback under column (4) and (5) of the Schedule of All Industry Rates of duty drawback of Notification No. 131/2016-Customs (N.T.) dated 31.10.2016 (as amended) is claimed-

a) (i) no input tax credit of the Central Goods and Services Tax or of the Integrated Goods and Services Tax has been and shall be availed on the export product,

OR

(ii) no input tax credit of the Central Goods and Services Tax or of the Integrated Goods and Services Tax has been and shall be availed on any of the inputs or input services used in the manufacture of the export product,

OR

(iii) no refund of Integrated Goods and Services Tax paid on export product shall be claimed;

[Please strike out (i), (ii) or (iii), whichever is not applicable.]

b) CENVAT credit on the export product or on inputs or input services used in the manufacture of the export product has not been carried forward and shall not carry forward in terms of the Central Goods and Services Tax Act, 2017.

Signature, date and seal of exporter



GST UPDATES

Circular No.1 /1/2017-Compensation Cess

F.No.354/136/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

New Delhi, Dated 26th July, 2017

To

Principal Chief Commissioners/Principal Directors General,
Chief Commissioners/Directors General,
Principal Commissioners/Commissioners,
All under CBEC.

Madam/Sir,

Subject: Clarification regarding applicability of section 16 of the IGST Act, 2017, relating to zero rated supply for the purpose of Compensation Cess on exports - Regarding.

The issue of zero rating of exports with reference to Compensation Cess has been examined.

2. In this regard section 8 of the Goods and Services tax (Compensation to States) Act, 2017 hereinafter referred to as [GSTC Act, 2017] provides for levy and collection of Compensation Cess and reads as under:

"8. (1) There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section 9 of the Central Goods and Services Tax Act, and such inter State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force, for a period of five years or for such period as may be prescribed on the recommendations of the Council:

(2) The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4) of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify."

3. Accordingly, based on the recommendation of GST Council, the effective rates of Compensation Cess leviable on various supplies, stand notified vide Notification No.1/2017-Compensation Cess (Rate).

4. Further, as per sub-section (5) of section 7 of IGST Act, 2017, supply of goods or services or both, when the supplier is located in India and place of supply is outside India, will be treated as inter-state supply. Therefore, exports being inter-state supplies, they will be liable to Compensation Cess.

This however will not be in line with the principle that no taxes be exported, and exports have to be zero rated.

5. Provisions relating to zero rating of exports are

“16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely: –

(a) export of goods or services or both; or

(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely: --

(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder”.

6. Moreover, the section 11 of the Goods and Services tax (Compensation to States) Act, 2017, provides that:

11. (1) The provisions of the Central Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, mutatis mutandis, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy and collection of central tax on such intra-State supplies under the said Act or the rules made thereunder.

(2) The provisions of the Integrated Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder: Provided that the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.

7. Therefore, sub-section (2) of section 11 of the Goods and Services tax (Compensation to States) Act, 2017 provides that provisions of Integrated Goods and Services Tax Act, and the rules made thereunder, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder.

8. In view of the above, it is hereby clarified that provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will apply mutatis mutandis for the purpose of Compensation Cess (wherever applicable), that is to say that:

- a) Exporter will be eligible for refund of Compensation Cess paid on goods exported by him [on similar lines as refund of IGST under section 16(3) (b) of the IGST, 2017]; or
- b) No Compensation Cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of Compensation Cess relating to goods exported [on similar lines as refund of input taxes under section 16(3) (a) of the IGST, 2017].

9. All concerned are requested to acknowledge the receipt of this circular.

10. Trade Notice/Public Notice to be issued. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours faithfully,

(Devranjan Mishra)
Technical Officer (TRU)



BMC ADVISORS

DESTINATION FOR PERFECTION

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