Issue: February 2018 Vol. 2 No. 3

BMC Advisors

Corporate Laws and Intellectual Property Rights Consultants

What's Inside

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

WEEKLY UPDATES

FEBRUARY 12TH, 2018 - FEBRUARY 18TH, 2018

INDEX

SEBI UPDATES

CIRCULAR

SEBI/HO/CFD/DIL2/CIR/P/2018/22 **February 15, 2018**

Registered Bankers to an Issue
Registered Merchant Bankers
Registered Registrars to an Issue
and Share Transfer Agents

Dear Sir/Madam,

Sub: Compensation to Retail Individual Investors (RIIs) in an IPO

1. While the process of Applications Supported By Block Amount (ASBA) has resulted in almost complete elimination of complaints pertaining to refunds, there have been instances where the applicants in an Initial Public Offering have failed to get allotment of specified securities and in the process may have suffered an opportunity loss due to the following factors:

   a) Failure on part of the Self Certified Syndicate Banks (SCSBs) to make bids in the concerned Exchange system even after the amount has been blocked in the investors' bank account with such SCSB.
   b) Failure on part of the SCSB to process the ASBA application seven when they have been submitted within time.
   c) Any other failures on part of an SCSB which has resulted in the rejection of the application form.

2. A need has been felt to have a uniform policy for calculation of minimum compensation payable to investors in scenarios mentioned in Para 1. a), b) and c) of this Circular. While doing so, the following factors have been taken into account:

   a) the opportunity loss suffered by the investor due to non-allotment of shares;
   b) the number of times the issue was oversubscribed in the relevant category;
   c) the probability of allotment; and
   d) the listing gains if any on the day of listing.

3. The proposed formula for calculation of minimum fair compensation is as follows:

   Compensation = (Listing price* - Issue Price) X No. of shares that would have been allotted if bid was successful X Probability of allotment of shares determined on the basis of allotment

   **Listing price shall be taken as the highest of the opening prices on the day of listing across the recognized stock Exchanges.*

   The formula has been explained with the help of an example in the annexure to this Circular.

4. It is also proposed that in case of issues which are subscribed between 90-100%, i.e. non oversubscribed issues, the applicants would be compensated for all the shares which they would have been allotted.

5. No compensation would be payable to the applicant in case the listing price is below the issue price.

6. RTAs shall share the basis of allotment file, if sought by SCSBs, so that the SCSBs shall have access to the allotment ratio for the purpose of arriving at the compensation.

7. Any applicant whose application has not been considered for allotment, due to failure on the part of the SCSB, shall have the option to seek redressal of the same within three months of the listing date with the concerned SCSB. On receipt of such application/s, the SCSB would be required to resolve the same within 15 days, failing which it would have to pay interest at the rate of 15% per annum for any delay beyond the said period of 15 days.

8. In case the SCSBs fail to redress such grievances within the stipulated time, additionally SEBI may initiate action as deemed fit.

9. This circular shall come into force with immediate effect. SCSBs are also advised to resolve all pending issues related to non-allotment of specified securities whether on the SEBI SCORES portal or otherwise using the compensation policy outlined in this Circular.

10. This circular is being issued in exercise of the powers under section 11 read with section 11A of the Securities and Exchange Board of India Act, 1992.

11. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

Amy Durga Menon
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Annexure

Reference chart for calculation of minimum compensation in case of non-allotment of specified securities to applicants (Retail Individual Investors) in an IPO

Example -Security A

Issue Price: 300
Listing Price: 325
Minimum Bid lot: 20 shares

Total No. of Applications received from RII	No. of Equity Shares applied in all valid applications	Shares Reserved for RIIs	No. of times Subscribed
(A)	(B)	(C)	(D)=B/C
2,00,000	3,28,00,000	35,00,000	9.37

*RII-Retail Individual investor

In this case maximum possible allottees is 35,00,000/20= 1,75,000

The basis of allotment is determined by Lead Managers in consultation with the Stock Exchanges as under:

No. of Lots	No. of shares at each lots	No. of retail Investors applying at each lot	Total No. of Shares applied for at each lot	No. of Investors who shall receive minimum bid-lot (to be selected on lottery)	Allotment Ratio Determined	No. of shares allotted per allottee (minimum lot size)
A	B	C	D=(B*C)	E	F=E:C	G
1	20	10,000	200,000	8750=(175000/200000)*10000	7:8	20
2	40	10,000	400,000	8,750	7:8	20
3	60	10,000	600,000	8,750	7:8	20
4	80	10,000	800,000	8,750	7:8	20
5	100	20,000	2,000,000	17,500	7:8	20
6	120	20,000	2,400,000	17,500	7:8	20
7	140	15,000	2,100,000	13,125	7:8	20
8	160	20,000	3,200,000	17,500	7:8	20
9	180	10,000	1,800,000	8,750	7:8	20
10	200	15,000	3,000,000	13,125	7:8	20
11	220	10,000	2,200,000	8,750	7:8	20
12	240	10,000	2,400,000	8,750	7:8	20
13	260	10,000	2,600,000	8,750	7:8	20
14	280	5,000	1,400,000	4,375	7:8	20
15	300	15,000	4,500,000	13.125	7:8	20
16	320	10,000	3,200,000	8,750	7:8	20
	Total	**2,00,000**	**32,800,000**	**175,000**		

In this case if the number of shares applied by an applicant whose bid was unsuccessful due to failure/error on part of SCSB is 20 shares or multiples thereof, then the minimum compensation is calculated as under:

Compensation = (Rs. 325 - Rs. 300)*20*(7/8) = Rs. 437.50

***

CIRCULAR

CIR/IMD/FPIC/ 26 /2018
February15, 2018

To,

1. **All Foreign Portfolio Investors ("FPIs") through their Designated Depository Participants ("DDPs") / Custodian of Securities.**
2. **All Recognized Stock Exchanges**
3. **The Depositories (NSDL and CDSL)**

Sir/ Madam,

Subject: Easing of Access Norms for investment by FPIs

SEBI in consultation with stakeholders has decided to make following changes in extant regulatory provisions to ease the access norms for investment by Foreign Portfolio Investors (FPIs):-

a) Discontinuance of requirements for seeking prior approval from SEBI in case of change in local custodian/ Designated Depository Participant (DDP) :

A Global Custodian generally manages a large number of FPI accounts in India. Sometimes they shift these FPIs accounts from one local custodian to another. At that time, taking specific request letter from each FPI regarding change of local custodian may create operational and logistical challenges. Accordingly, the following changes have been made:-:

Clause 5.4 of Operational Guidelines for DDPs ref. SEBI circular dated January 08, 2014–Change in DDP/Custodian	
Existing provision	**Revised provision**
In case the FPI wishes to change the DDP/Custodian, the request for change shall be intimated to SEBI through the concerned DDP/Custodian. On receipt of no objection from the existing transferor DDP/Custodian and acceptance from the proposed transferee DDP/Custodian, then approval from SEBI shall be sought by concerned FPI.	In case, the FPI or its Global Custodian wishes to change the local custodian/DDP, the request for change shall be forwarded to new local custodian/DDP. In case, the Global Custodian of FPI wishes to change the local custodian/DDP, then the request for change can be sent by the Global Custodian on behalf of its underlying FPI clients provided such Global Custodian has been explicitly authorized to take such steps by the client. Upon receipt of no objection from the transferor local custodian/DDP, the transferee local custodian/DDP shall approve the change and intimate SEBI about the change. In case, the request for change in local custodian/DDP is received from Global Custodian, the transferee local custodian/DDP shall inform Compliance Officer of the concerned FPI(s) regarding the change in their local custodian/DDP.

b) Rationalization of procedure for submission of PCC/MCV Declarations and Undertakings (D&U) and Investor grouping requirement at the time of continuance of registration of FPIs:

At the time of FPI registration / conversion, PCC/MCVD&U and information regarding FPI investor group is provided and the same are recorded in NSDL portal. In case there is no change in the information already submitted, the requirement to resubmit PCC/MCV D&U and information regarding FPI investor groups at the time of continuance is being dispensed with. Accordingly, FAQ 51 has been changed in the following manner:

FAQ 51. Is a DDP required to collect Form A from an FPI at the time of payment of registration fee for continuance of its registration as FPI?	
Existing provision	**Revised provision**
In the FII regime, an FII/SA at the time of payment of registration fee for continuance of its registration as FII/SA is not required to submit Form A. However, it is required to submit certain documents namely Declaration and Undertaking as specified in SEBI circular No. CIR/IMD/FIIC/1/ 2010 dated April 15, 2010 and Information regarding FII groups along with a confirmation to the effect that there is no change in structure of the FII and SA as compared to that furnished to SEBI earlier. The same practice shall continue in the FPI regime.	In the FII regime, an FII/SA at the time of payment of registration fee for continuance of its registration as FII/SA was not required to submit Form A. The same practice shall continue in the FPI regime. Further, FPIs are not required to re-submit 'Declaration and Undertaking' (as specified in the SEBI Circular No. CIR/IMD/FIIC/1/ 2010 dated April 15, 2010) and information regarding FPI investor groups, in case there is no change in the information as compared to that furnished to the DDP earlier. DDPs may rely on the specific declaration from the FPI that there is no change in the information, as compared to that furnished to the DDP earlier. DDPs may rely on the specific declaration from the FPI that there is no change in the information, as previously furnished. However, it may be noted that the DDP/Custodians will continue to ensure compliance with the KYC due diligence requirement prescribed by SEBI/RBI and changes therein as may be notified from time to time.

c) **Placing reliance on due diligence carried out by erstwhile DDP at the time of change of Custodian/ DDP of FPIs:** At the time of change of local custodian/DDP by an FPI, the new local custodian/DDP is required to carry out the adequate due diligence requirement to ascertain the eligibility of the FPI. The due diligence by the new DDP on an already registered FPI at the time of change of local custodian/DDP often leads to increased documentation and sometimes delays the transition. Accordingly, the following change has been made:-

Existing provision (e-mail dated July 02, 2015)	**Revised provision**
With respect to the process of change of Custodian/DDP by an FPI, it is informed that both old (i.e. transferor) as well as new Custodian/DDP (i.e. Transferee) shall be required to carry out the adequate due diligence in the process.	With respect to the process of change of local custodian/DDP by an FPI, it is informed that the new DDP (i.e. transferee) may rely on the due diligence carried out by the old DDP. However, the new DDP is required to carry out adequate due diligence at the time when the FPI applies for continuance of its registration on an ongoing basis.

d) **Exemption to FPIs having Multiple Investment Managers (MIM) structure from seeking prior approval from SEBI in case of Free of Cost (FOC) transfer of assets:**

As per Regulation 21(4) (d) of SEBI (FPI) Regulations, 2014, *"the transaction of business in securities by a foreign portfolio investor shall be only through stock brokers registered by the Board."*

Notwithstanding the above, it is proposed that requests for FOC between FPIs operating under MIM structure (with same PAN issued by Income Tax Department) shall be permitted and can be processed by DDPs at their end. Accordingly, the following change has been made:-

FAQ 28. Who would consider application for free of cost transfer of assets?	
Existing provision	**Revised provision**
The request for free of cost transfer of assets by the FPI should be forwarded to SEBI for its consideration through the concerned DDP	The request for free of cost transfer of assets between FPIs having same PAN and also registered with SEBI showing Multiple Investment Managers (MIM) structure may be processed by DDPs at their end.

e) <u>Simplification of process for addition of share class</u>: FAQs 49 and 100 have been changed as below:

FAQ 49. Does every fund / sub fund / share class need to separately fulfil broad based criteria? Is prior approval required for launch of new share class from DDP?	
Existing provision	**Revised provision**
Yes, every fund / sub fund / share class needs to separately fulfil broad based criteria, where segregated portfolio is maintained. In case of addition of classes of shares, the FPI shall be required to obtain prior approval from DDP. For granting of such prior approval, DDPs shall obtain following documents from the FPI applicant: a) A declaration and undertaking with respect to PCC, MCV status as specified in SEBI circular ref. no. CIR/IMD/FIIC/1/ 2010 dated April 15, 2010; b) In cases where segregated portfolios are maintained, where the newly added share class is already broad based, the FPI will continue to be considered as being broad based. i. Where the newly added share class is not broad based, then an undertaking is to be obtained by the DDP that the newly added share class will become broad based within 90 days from the date of DDP approval letter. ii. In case of simultaneous addition of more than one share class, which are not broad based, then an undertaking is to be obtained by the DDP that all the newly added share classes will become broad based within 15 days from the date of DDP approval letter	In case common portfolio of Indian securities is maintained across all classes of shares/fund/sub-fund and broad based criteria are fulfilled at portfolio level after addition of share class, prior approval from DDP is not required. However, in case of segregated portfolio in India, every fund / sub fund / share class needs to separately fulfil broad based criteria. Further, in case of addition of classes of shares for segregated portfolio, the FPI shall be required to obtain prior approval from DDP. However, for deletion of share classes of shares of segregated portfolio, an intimation should be provided to DDP forthwith. For granting of such prior approval, DDPs shall obtain declaration and undertaking with respect to PCC, MCV status. Further, in case of addition of one or more than one share class, which are not broad based, an undertaking may be obtained by the DDP that all the newly added share classes shall attain broad based status within 180 days from the date of approval issued by DDP
FAQ 100. If the prospectus of a fund (registered as FPI) allows for share classes such as various currencies, can such an FPI request for addition of share class for every single iteration/variant of a share-class at one time irrespective of whether it actually launches the share-class or not?	
Existing provision	**Revised provision**
It has already been clarified in reply to Q 49 of FAQs that in case of simultaneous addition of	It has already been clarified in reply to Q 49 of FAQs that in case of simultaneous addition of more

more than one share class, which are not broad based, then an undertaking is to be obtained by the DDP that all the newly added share classes will become broad based within 15 days from the date of DDP approval letter. However, where common portfolio is maintained, the approval of launch of share class/variant shall be taken prior to its launch.	than one share class (where segregated portfolio is maintained), which are not broad based, then an undertaking is to be obtained by the DDP that all the newly added share classes will attain broad based status within 180 days from the date of approval issued by DDP.

f) **Permitting FPIs operating under the Multiple Investment Managers (MIM) structure to appoint multiple custodians:** FAQs 6 and 103 have been changed as below:

FAQ 6. Can an entity obtain more than one FPI registration (similar to the one allowed for MIM structures in the FII regime)?	
Existing provision	**Revised provision**
Yes. In the FII regime, wherever an entity engages Multiple Investment Managers (MIM structure) it can obtain multiple registrations with SEBI. These applicants are required to appoint the same local custodian. Further, investments made under such multiple registrations are clubbed for the purpose of investment limits. The same position shall continue in the FPI regime.	Yes. In the FII regime, wherever an entity engages Multiple Investment Managers (MIM structure) it can obtain multiple registrations with SEBI. Further, investments made under such multiple registrations were clubbed for the purpose of monitoring of investment limits. The same position shall continue in the FPI regime. Also, such applicants can appoint different local custodians/DDPs
FAQ 103. Can a DDP register proprietary accounts for the purposes of internal segregation (other than for MIM purposes)? Are there any limitations on how many such proprietary FPIs can be registered?	
Existing provision	**Revised provision**
It has already been clarified in reply to Q6 of the FAQs that in the FII regime, wherever an entity engages Multiple Investment Managers (MIM structure) it can obtain multiple registrations with SEBI. These applicants are required to appoint the same local custodian. Further, investments made under such multiple registrations are clubbed for the purpose of investment limits. The same position shall continue in the FPI regime.	It has already clarified in reply to Q 6 of the FAQs that in the FII regime, wherever an entity engages Multiple Investment Managers (MIM structure) it can obtain multiple registrations with SEBI. Further, investments made under such multiple registrations were clubbed for the purpose of monitoring of investment limits. The same position shall continue in the FPI regime. Also, such applicants can appoint different local custodians/DDPs.

g) **Permitting appropriately regulated Private Bank/ Merchant Bank to invest on their behalf and also on behalf of their clients**: It has been decided that private bank/ merchant bank may invest on behalf of their clients provided that the banks do not have any secrecy arrangement with the investors and secrecy laws do not apply to the jurisdictions in which the bank is regulated. Further, details of beneficial owners of investors are available and would be provided as and when required by Regulators. Accordingly, the following changes has been made:

FAQ 20. How would the Private Banks and Merchant Banks be classified? Should they be considered as appropriately regulated if they are regulated or supervised by the banking regulator of the concerned foreign jurisdiction and thus qualify to be Category II FPI?	
Existing provision	**Revised provision**
Private Banks and Merchant Banks that are regulated by an "appropriate regulator" may be classified as Category II. Further, such entities shall be allowed to undertake only proprietary investments. [Ref. Regulation 5(b)]	Private Banks and Merchant Banks that are regulated by an "appropriately regulator" may be classified as Category II. Further, they will be permitted to undertake investments on behalf of its

	investors provided the private banks/ merchant banks submit a declaration that i. The details of beneficial owners are available and will be provided as and when required by the regulators; ii. The banks do not have any secrecy arrangement with the investors and all required legal/regulatory arrangements have been put in place in order to ensure that any secrecy laws or confidentiality clauses do not impede disclosure of beneficial owner details as and when required by Indian regulators. iii. In addition to (i) and (ii), such entities shall also be allowed to undertake proprietary investment by taking separate registration with SEBI.

FAQ 21. Can a Private Bank/Merchant Bank invest on behalf of its clients?	
Existing provision	**Revised provision**
No. Private Bank/Merchant Bank cannot invest on behalf of their clients. They are only permitted to make proprietary investments	Please refer to reply to FAQ 20.
FAQ 162. A private bank namely "Y" is one of the investors in a fund namely "X", which seeks to get registered as an FPI. "Y" intends to invest on behalf of multiple clients. Can a DDP consider "X" eligible for grant of registration as an FPI?	
Existing provision	**Revised provision**
While assessing the eligibility of an FPI applicant, a DDP may refer to the reply to Q# 21 of the FAQs, which states that private bank/merchant bank cannot invest on behalf of their clients. They are only permitted to make proprietary investments.	FAQ 162 is deleted.

h) **<u>Other Clarifications on Conditional registration</u>**: Clause 2.5 of operational guidelines mandated in Circular No. CIR/IMD/FIIC/02/2014 dated January 08, 2014, states that conditional registration facility is available only to "newly established" India dedicated fund. The facility of granting conditional registration shall also be extended to existing funds, proposing to convert as India dedicated funds. However, existing India dedicated funds will be given time of 90 days to achieve Broad based status.

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.

A copy of this circular is available at the links "Legal Framework → Circulars" and "Info for → F.P.I" on our website www.sebi.gov.in. The DDPs/Custodians are requested to bring the contents of this circular to the notice of their FPI clients.

Yours faithfully,
(Achal Singh)

RBI UPDATES

RBI/2017-18/131
DBR.No.BP.BC.101/21.04.048/2017-18

February 12, 2018

All Scheduled Commercial Banks
(Excluding Regional Rural Banks (RRB)),
All-India Financial Institutions
(Exim Bank, NABARD, NHB and SIDBI)

Dear Sir/Madam,

Resolution of Stressed Assets – Revised Framework

1. The Reserve Bank of India has issued various instructions aimed at resolution of stressed assets in the economy, including introduction of certain specific schemes at different points of time. In view of the enactment of the Insolvency and Bankruptcy Code, 2016 (IBC), it has been decided to substitute the existing guidelines with a harmonised and simplified generic framework for resolution of stressed assets. The details of the revised framework are elaborated in the following paragraphs.

I. Revised Framework

A. Early identification and reporting of stress

2. Lenders shall identify incipient stress in loan accounts, immediately on default, by classifying stressed assets as special mention accounts (SMA) as per the following categories:

SMA Sub-categories	Basis for classification – Principal or interest payment or any other amount wholly or partly overdue between
SMA-0	1-30 days
SMA-1	31-60 days
SMA-2	61-90 days

3. As provided in terms of the circular DBS.OSMOS.No.14703/33.01.001/2013-14 dated May 22, 2014 and subsequent amendments thereto, lenders shall report credit information, including classification of an account as SMA to Central Repository of Information on Large Credits (CRILC) on all borrower entities having aggregate exposure of ₹ 50 million and above with them. The CRILC-Main Report will now be required to be submitted on a monthly basis effective April 1, 2018. In addition, the lenders shall report to CRILC, all borrower entities in default (with aggregate exposure of ₹ 50 million and above), on a weekly basis, at the close of business on every Friday, or the preceding working day if Friday happens to be a holiday. The first such weekly report shall be submitted for the week ending February 23, 2018.

B. Implementation of Resolution Plan

4. All lenders must put in place Board-approved policies for resolution of stressed assets under this framework, including the timelines for resolution. As soon as there is a default in the borrower entity's account with any lender, all lenders − singly or jointly − shall initiate steps to cure the default. The resolution plan (RP) may involve any actions / plans / reorganization including, but not limited to,

regularisation of the account by payment of all over dues by the borrower entity, sale of the exposures to other entities / investors, change in ownership, or restructuring. The RP shall be clearly documented by all the lenders (even if there is no change in any terms and conditions).

C. Implementation Conditions for RP

5. A RP in respect of borrower entities to whom the lenders continue to have credit exposure, shall be deemed to be 'implemented' only if the following conditions are met:

a. the borrower entity is no longer in default with any of the lenders;

b. if the resolution involves restructuring; then

i. all related documentation, including execution of necessary agreements between lenders and borrower/creation of security charge/perfection of securities are completed by all lenders; and
ii. the new capital structure and/or changes in the terms of conditions of the existing loans get duly reflected in the books of all the lenders and the borrower.

6. Additionally, RPs involving restructuring / change in ownership in respect of 'large' accounts (i.e., accounts where the aggregate exposure of lenders is ₹ 1 billion and above), shall require independent credit evaluation (ICE) of the residual debt by credit rating agencies (CRAs) specifically authorised by the Reserve Bank for this purpose. While accounts with aggregate exposure of ₹ 5 billion and above shall require two such ICEs, others shall require one ICE. Only such RPs which receive a credit opinion of RP4 or better for the residual debt from one or two CRAs, as the case may be, shall be considered for implementation. Further, ICEs shall be subject to the following:

a. The CRAs shall be directly engaged by the lenders and the payment of fee for such assignments shall be made by the lenders.
b. If lenders obtain ICE from more than the required number of CRAs, all such ICE opinions shall be RP4 or better for the RP to be considered for implementation.

7. The above requirement of ICE shall be applicable to restructuring of all large accounts implemented from the date of this circular, even if the restructuring is carried out before the 'reference date' stipulated in paragraph 8 below.

D. Timelines for Large Accounts to be Referred under IBC

8. In respect of accounts with aggregate exposure of the lenders at ₹ 20 billion and above, on or after March 1, 2018 ('reference date'), including accounts where resolution may have been initiated under any of the existing schemes as well as accounts classified as restructured standard assets which are currently in respective specified periods (as per the previous guidelines), RP shall be implemented as per the following timelines:

i. If in default as on the reference date, then 180 days from the reference date.
ii. If in default after the reference date, then 180 days from the date of first such default.

9. If a RP in respect of such large accounts is not implemented as per the timelines specified in paragraph 8, lenders shall file insolvency application, singly or jointly, under the Insolvency and Bankruptcy Code 2016 (IBC) within 15 days from the expiry of the said timeline.

10. In respect of such large accounts, where a RP involving restructuring/change in ownership is implemented within the 180-day period, the account should not be in default at any point of time during the 'specified period', failing which the lenders shall file an insolvency application, singly or jointly, under the IBC within 15 days from the date of such default.

'Specified period' means the period from the date of implementation of RP up to the date by which at least 20 percent of the outstanding principal debt as per the RP and interest capitalisation sanctioned as part of the restructuring, if any, is repaid.

Provided that the specified period cannot end before one year from the commencement of the first payment of interest or principal (whichever is later) on the credit facility with longest period of moratorium under the terms of RP.

11. Any default in payment after the expiry of the specified period shall be reckoned as a fresh default for the purpose of this framework.

12. For other accounts with aggregate exposure of the lenders below ₹ 20 billion and, at or above ₹ 1 billion, the Reserve Bank intends to announce, over a two-year period, reference dates for implementing the RP to ensure calibrated, time-bound resolution of all such accounts in default.

13. It is, however, clarified that the said transition arrangement shall not be available for borrower entities in respect of which specific instructions have already been issued by the Reserve Bank to the banks for reference under IBC. Lenders shall continue to pursue such cases as per the earlier instructions.

E. Prudential Norms

14. The revised prudential norms applicable to any restructuring, whether under the IBC framework or outside the IBC, are contained in Annex-1. The provisioning in respect of exposure to borrower entities against whom insolvency applications are filed under the IBC shall be as per their asset classification in terms of the Master Circular on Prudential norms on Income Recognition, Asset Classification and Provisioning, as amended from time to time.

II. Supervisory Review

15. Any failure on the part of lenders in meeting the prescribed timelines or any actions by lenders with an intent to conceal the actual status of accounts or evergreen the stressed accounts, will be subjected to stringent supervisory / enforcement actions as deemed appropriate by the Reserve Bank, including, but not limited to, higher provisioning on such accounts and monetary penalties.

III. Disclosures

16. Banks shall make appropriate disclosures in their financial statements, under 'Notes on Accounts', relating to resolution plans implemented. Detailed guidelines will be issued separately.

IV. Exceptions

17. Restructuring in respect of projects under implementation involving deferment of date of commencement of commercial operations (DCCO), shall continue to be covered under the guidelines contained at 4.2.15 of the Master Circular No.DBR.No.BP.BC.2/21.04.048/2015-16 dated July 1, 2015 on

'Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances'.

V. Withdrawal of extant instructions

18. The extant instructions on resolution of stressed assets such as Framework for Revitalising Distressed Assets, Corporate Debt Restructuring Scheme, Flexible Structuring of Existing Long Term Project Loans, Strategic Debt Restructuring Scheme (SDR), Change in Ownership outside SDR, and Scheme for Sustainable Structuring of Stressed Assets (S4A) stand withdrawn with immediate effect. Accordingly, the Joint Lenders' Forum (JLF) as an institutional mechanism for resolution of stressed accounts also stands discontinued. All accounts, including such accounts where any of the schemes have been invoked but not yet implemented, shall be governed by the revised framework.

19. The list of circulars/directions/guidelines subsumed in this circular and thereby stand repealed from the date of this circular is given in Annex - 3.

20. The above guidelines are issued in exercise of powers conferred under Section 35A, 35AA (read with S.O.1435 (E) dated May 5, 2017 issued by the Government of India) and 35AB of the Banking Regulation Act, 1949; and, Section 45(L) of the Reserve Bank of India Act, 1934.

Yours faithfully,

(Saurav Sinha)
Chief General Manager-in-Charge

For Annexures, Please refer below link:
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11218&Mode=0

RBI/2017-18/132
DCM (RMMT) No.2945/11.37.01/2017-18

February 15, 2018

The Chairman and Managing Director /
The Managing Director/
The Chief Executive Officer

All Banks

Dear Sir

Acceptance of coins

We invite a reference to Paragraph 1 (d) of our Master Circular DCM (NE) No. G - 1/08.07.18/2017-18 dated July 03, 2017 on Facility for Exchange of Notes and Coins where it was advised that none of the bank branches should refuse to accept small denomination notes and / or coins tendered at their counters. However, Reserve Bank continues to receive complaints about non-acceptance of coins by bank branches. Such denial of service has reportedly, in turn, led to refusal on the part of shopkeepers and small traders, etc., to accept coins as payment for goods sold and services rendered causing inconvenience to the public at large. You are, therefore, once again advised to immediately direct all your branches to accept coins of all denominations tendered at their counters either for exchange or for deposit in accounts.

2. We further advise that it will be preferable to accept coins, particularly, in the denominations of ₹ 1 and 2, by weighment. However, accepting coins packed in polythene sachets of 100 each would perhaps be more convenient for the cashiers as well as the customers. Such polythene sachets may be kept at the counters and made available to the customers. A notice to this effect may be displayed suitably inside as also outside the branch premises for information of the public.

3. In order to obviate the problems of storage of coins at the branches, coins may be remitted to the currency chests as per the existing procedure. The stock thus built in the currency chest should be utilised for the purpose of re-circulation. In case the stocks of these coins reach beyond the holding capacity of the currency chest for lack of demand, the Issue Department of the Circle may be approached for remittance of coins.

4. The Controlling Offices may be advised to pay surprise visits to the branches and report the position of compliance in this regard to the Head Office. The reports may be reviewed at the Head Office and prompt remedial action taken, wherever necessary.

5. Any non-compliance in this regard shall be viewed as violation of instructions issued by the Reserve Bank of India and action including penal measures as applicable from time to time, may be initiated.

6. Please acknowledge receipt.

Yours faithfully

(Uma Shankar)
Executive Director

INCOME TAX UPDATES

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

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

New Delhi, the 12th of February, 2018

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 Chief Executive Officer, Government e Marketplace (GeM) 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 12.02.2018 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 information to the authority being notified.

(Rohit Garg)
Director-(ITA ll), CBDT

(F.No. 225/61/2018-ITA.II)

Notification No. 6/2018

To
The Manager,
Government of India Press,
Mayapuri, New Delhi

Copy forwarded to:-

1. PPS to FM/Dir (FMO)/OSD 10 MoS(R)/PPS to RS/PPS to Chairman. CBDT and all Members, CBDT
2. Chief Executive Officer, GeM, Delhi
3. Pr. DGIT(Systems), N.Delhi
4. All Pr. CCsIT/DGsIT for kind information
5. ITCC, Central Board of Direct Taxes (4 copies)
6. O/o Pr. DGIT (Systems), New Delhi, for placing on the website: incomelaxindia.gov.in
7. Addl. CIT, Data base Cell for uploading on Departmental Website
8. Guard file

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

F. No. 225/61/2018/ITA.II
Government of India
Ministry of Finance
Department of Revenue [CBDT]

North Block, New Delhi, the 12th of February, 2018

Order

In exercise of powers conferred under section 138(1)(a) of Income tax Act, 1961 ("Act'), the Central Board of Direct taxes hereby directs that Principal Director General of Income-tax (Systems), New Delhi (Pr. DGIT(Systems)) shall be the specified authority for furnishing the information to the Chief Executive Officer, Government e Marketplace (GeM) as notified vide Notification No. ……/2018 dated ....., under sub-clause (ii) of clause (a) of sub-section (1) of section 138 of the Act.

2. Following information regarding entities seeking registration with GeM as sellers shall be furnished:

i. **Pan data in respect of seller:**
ii. **Latest available three years' Balance Sheet of the sellers;**
iii. **Key Director's details related to the sellers; and**
iv. **Any further information considered necessary for verification of antecedents of the sellers (to be decided on basis of mutual consultation between Pr. DGIT(Systems) & GeM)**

On the basis of mutual consultations between the two authorities, the information being provided by income-tax department on any of the above parameters can also be in form of online verification by GeM portal for which necessary system enablement would be provided by Pro DGIT(Systems). However, information being shared under section 138 of the Act by the Income-tax Department with GeM shall be used only for its internal purposes & not shared/passed on to other institution/agency.

3. To facilitate the process of furnishing information, Pr. DGIT(Systems) would enter into a Memorandum of Understanding (MoU) with GeM which inter-alia, would include the mode of transfer of data, maintenance of confidentiality, mechanism for safe preservation of data, weeding it out after usage etc. The frequency and time line for furnishing information shall be decided by Pr. DGIT(Systems) in consultation with GeM and included in the said MoU.

4. A copy of the MoU shall be forwarded to this division for record purposes.

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

Copy forwarded to:-

1. PPS to FM/Dir (FMO)/OSD to MoS(R)/PPS to RS/PPS to Chairman, CBDT and all Members, CBDT
2. Chief Executive Officer, GeM, Delhi
3. Pr. DGIT(Systems), N.Delhi
4. All Pr. CCsIT/DGsIT for kind information
5. ITCC, Central Board of Direct Taxes (4 copies)
6. O/o Pr. DGIT (Systems), New Delhi, for placing on the website: incomelaxindia.gov.in
7. Addl. CIT, Data base Cell for uploading on Departmental Website
8. Guard file

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

F. No. 370142/15/2017-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
****

Dated, 15th of February, 2018

EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE ACT, 2017

For full explanatory notes to the provisions to the Finance Act, 2017, please refer the below link:

https://www.incometaxindia.gov.in/communications/circular/circular2_2018.pdf

EXCISE UPDATES

Circular No. 1063/2/2018-CX

F. No. 116/2/2018-CX 3
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi, North Block
16th of February, 2018

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners of Central Tax & Central Excise (All)

Web-master, CBEC

Madam/Sir,

Sub: Orders of Supreme Court, High Courts and CESTAT accepted by the Department and on which no review petitions, SLPs have been filed– reg.

Field formations send SLP & CA proposals to the Board. Many of them after examination are not approved and such decisions of High Courts & Tribunals thus attain finality. It has been decided to disseminate such information to the field formations. Attention is invited to sixty three orders of different High Courts summarized in this Circular which have been accepted by the Department. In fourteen of these orders, Hon'ble High Courts have decided various questions of law. In the rest forty nine cases the Hon'ble High Courts have delivered judgments on the basis of some settled case law or have decided points of facts or have dismissed the appeal on monetary grounds. The said orders have been complied in this Circular so that cases pending in the field can be expeditiously decided, if the questions of law or facts involved are identical.

2. The Circular has two parts, namely Part I and Part II, where Part I comprises of the orders of various High Courts in which points of law have been decided and Part II comprises orders which have been decided on facts or have been dismissed on monetary limits. All the orders have been accepted by the Department and against them no SLP etc has been preferred in the Hon'ble Supreme Court.

3. This exercise has been undertaken as an endeavour to reduce litigations so that cases on similar questions of law or identical case on facts pending in your jurisdictions can be decided.

For orders of various High Courts in which points of law have been decided (Part I) and orders which have been decided on facts or have been dismissed on monetary limits (Part II), please refer below mentioned link:

http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2018/circ1063-2018cx.pdf

4. The aforementioned orders of the various High Courts have been accepted by the Board. It is requested that cases pending in your jurisdictions pertaining to the questions of law or identical case on facts decided in the said orders may kindly be decided expeditiously.

5. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board.

Shankar Prasad Sarma
Under Secretary to the Government of India

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. 26/2018-Customs

New Delhi, the 12th February, 2018

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) and sub-section (12) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, 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, Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 785(E), dated the 30th June, 2017, namely:-

In the said notification, in the Table, for S.No. 531 and the entries relating thereto, the following S. No. and entries shall be substituted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
"531.	8711	Motor cycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side cars, and side cars, new, which have not been registered anywhere prior to importation-			
		(1) as a completely knocked down (CKD) kit containing all the necessary components, parts or sub-assemblies, for assembling a complete vehicle, with-			
		(a) engine, gearbox and transmission mechanism not in a pre-assembled condition;	15%	-	-
		(b) engine or gearbox or transmission mechanism in pre-assembled form, not mounted on a body assembly;	25%	-	-
		(2) in a form other than (1) above	50%	-	-".

[F. No.354/33/2018- TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: The principal notification No. 50/2017-Customs, dated the 30th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 785(E), dated the 30th June, 2017 and last amended vide notification No. 24/2018 -Customs, dated the 6th February, 2018, published vide number G.S.R. 146(E), dated the 6th February, 2018.

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

Government of India
Ministry of Finance
(Department of Revenue)
(Central Board of Excise and Customs)

Notification No. 12/2018-CUSTOMS (N.T.)

New Delhi, 15th February, 2018
26 Magha, 1939 (SAKA)

S.O. … (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:

"TABLE-1

"TABLE -1 Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	681
2	1511 90 10	RBD Palm Oil	686
3	1511 90 90	Others – Palm Oil	684
4	1511 10 00	Crude Palmolein	695
5	1511 90 20	RBD Palmolein	698
6	1511 90 90	Others – Palmolein	697
7	1507 10 00	Crude Soya bean Oil	831
8	7404 00 22	Brass Scrap (all grades)	3938
9	1207 91 00	Poppy seeds	2485

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 and 358 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	430 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 and 359 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	534 per kilogram

TABLE-3

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	3948″

[F. No. 467/01/2018 -Cus-V]

(Dr. Sreeparvathy S.L.)
Under Secretary to the Govt. of India

Note: - The principal notification was published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide Notification No. 36/2001–Customs (N.T.), dated the 3rd August, 2001, vide number S. O. 748 (E), dated the 3rd August, 2001 and was last amended vide Notification No. 10/2018-Customs (N.T.), dated the 31st January, 2018, e-published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 478(E), dated 31st January, 2018.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF EXCISE AND CUSTOMS)
*****

Notification No. 13/2018 - Customs (N.T.)

New Delhi, dated the 15th February, 2018
12 Magha 1939 (SAKA)

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the notification of the Central Board of Excise and Customs No. 11/2018-CUSTOMS (N.T.), dated 1st February, 2018 except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 16th February, 2018, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	**(b)**
		(For Imported Goods)	**(For Export Goods)**
1.	Australian Dollar	51.70	49.90
2.	Bahrain Dinar	175.50	164.25
3.	Canadian Dollar	52.05	50.45
4.	Chinese Yuan	10.25	9.90
5.	Danish Kroner	10.90	10.50
6.	EURO	81.05	78.30
7.	Hong Kong Dollar	8.30	8.05
8.	Kuwait Dinar	220.85	206.20
9.	New Zealand Dollar	48.15	46.25
10.	Norwegian Kroner	8.35	8.05
11.	Pound Sterling	91.10	88.10
12.	Qatari Riyal	18.15	17.15
13.	Saudi Arabian Riyal	17.65	16.50
14.	Singapore Dollar	49.50	47.95
15.	South African Rand	5.65	5.25
16.	Swedish Kroner	8.20	7.90
17.	Swiss Franc	70.10	67.75
18.	UAE Dirham	18.00	16.85
19.	US Dollar	64.85	63.15

SCHEDULE-II

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	**(b)**
		(For Imported Goods)	(**For Export Goods)**
1.	Japanese Yen	61.05	58.95
2.	Kenyan Shilling	64. 90	60.65

[F.No. 468/01/2018-Cus.V]

(Dr. Sreeparvathy S.L.)
Under Secretary to the Govt. of India
TELE: 011-2309 5541

Instruction No. 03/2018- Customs

F. No. 394/21/2018- Cus (AS)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Anti- Smuggling Unit)
***

New Delhi, dated 16th February 2018

To

All Principal Chief Commissioners/ Chief Commissioners of Customs/ Customs (Preventive),
All Principal Chief Commissioners/ Chief Commissioners of Customs & CGST,
All Principal Commissioners/ Commissioners of Customs/ Customs (Preventive),
All Principal Commissioners/Commissioners of Customs & CGST,
The Director General, Directorate General of Revenue Intelligence

Madam/Sir,

Subject: Providing the CDR & Customer Details- regarding

It has been brought to the notice of the Board that field formations are approaching DRI for seeking CDRs and Customer details of Phone numbers from the telecom Service providers.

2. This is reportedly being done as telecom service providers are not providing these details to the field formations since they are not a designed 'Law Enforcement Agency' like DRI under the provisions of Section 5(2) of Indian Telegraph Act, 1885.

3. In view of the above, it is clarified that field formations can obtain the SDR/CDR details directly from telecom service providers under the provisions of Section 108 of the Customs Act, 1962 which empowers any Gazetted Officer of Customs to summon any person to give evidence or to produce documents. For investigation purposes, DRI also obtains SDR/CDR details from telecom service providers under the provisions of Section 108 of the Customs Act, 1962. Hence, field formations may not refer such matters to DRI and seek the required details directly from the telecom Service Providers under the provisions stated above.

Yours Faithfully,

(Rohit Anand)
Under Secretary to the Government of India

GST UPDATES

Circular No. 32/06/2018-GST

F. No. 354/17/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit
****

Room No. 146G, North Block,
New Delhi, 12th February 2018

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Clarifications regarding GST in respect of certain services

I am directed to issue clarification with regard to the following issues approved by the GST Council in its 25th meeting held on 18th January 2018:-

S. No.	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017 CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) *refers*]
2.	Is GST leviable on the fee/amount charged in the following situations/cases: – (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Customer Welfare Fund's bank account.	Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they maynot have been set up directly under Article323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: -

	(2) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required. (3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.	(1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi-judicial machinery is sought to be set up at District, State and Central levels. (2) The President of the District/ State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively. (3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc. (4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC. (5) The Commissions have been deemed to be a civil court under CrPC. (6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court. In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.
3.	Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@ 28%?	Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers. [Sl. No 34(iii) of notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 *refers*]
4.	What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers)? The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost	Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for

	including loading and unloading is also paid by the customer.	discharging IGST on rental services. Thus, only the value added gets taxed. [Sl. No 17(vii) of notification No. 11/2017- CT(Rate) dated 28.6.17 as amended *refers*].
5.	Is GST leviable in following cases: (1) Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer employee relationship. Will such consultancy charges be exempt from GST Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST? (2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals? (3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.	Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017- CT(Rate) dated 28.06.2017 as amended *refers*]. (1) Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt. (2) Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India[para 2(zg) of notification No. 12/2017- CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt. (3) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.
6.	Appropriate clarification may be issued regarding taxability of Cost Petroleum.	As per the Production Sharing Contract(PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year

		for recovery of these contract costs is called "Cost Petroleum". The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.

2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Harsh Singh
Technical Officer (TRU)
Email: harshsingh.irs@gov.in

BMC ADVISORS

DESTINATION FOR PERFECTION

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