



BMC Advisors



What's Inside

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

WEEKLY UPDATES

FEBRAURY 20TH, 2017-FEBRAURY 26TH, 2017

INDEX

MCA UPDATE	
Section 391(2) closure of place of business by a Foreign Company	4-5
Notification regarding IEPF Authority	6
SEBI	
Participation in derivatives market by Mutual Funds	7-8
Prudential limits in sector exposure for Housing Finance Companies(HFCs)	9
Amendment pursuant to comprehensive review of Investor Grievance Redressal Mechanism	10-17
RBI UPDATE	
Sovereign Gold Bonds 2016-17 - Series IV	18-21
Sovereign Gold Bonds, 2016-17 - Series IV - Operational Guideline	22-24
Master Direction - Money Transfer Service Scheme (MTSS)	25
INCOME TAX UPDATE	
Notification No. 12/2017 [F.No. 225/120/2016-ITA.II]	26-27
Notification No.13/2017 [F. No. 370142/2/2017-TPL]	28
Notification No. 14/2017/F. No. 196/30/2016-ITA-I	29
Notification No.15/2017, /F. No. 196/30/2016-ITA-I	30
Circular 08/2017: Clarification of determination of Place of Effective Management (POEM) of a company, other than an Indian company.	31
SERVICE TAX UPDATE	
Services by the operators of Common Effluent Treatment Plant by way of treatment of effluent from the 1st of July 2012 to 31st of March 2015	32
Service Tax payable by way of admission to a museum	33
EXCISE UPDATES	
Classification of articles of paper and printing industry	34-37
DGFT UPDATE	
Amendment in Para 4.44 of Chapter 4 of the Foreign Trade Policy (FTP) 2015-20.	38
Amendment in Paragraph 4.34 (i) of Chapter 4 of the Foreign Trade Policy (FTP) 2015-2020.	39

MCA UPDATES

General Circular No. 01/ 2017

F. No. 1/23/2013-CL-V
Government of India
Ministry of Corporate Affairs

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

Dated: 22th February, 2017

To

All RDs,
All ROCs,
The Stakeholders.

Sub: Section 391(2) closure of place of business by a Foreign Company. - reg.

Sir,

Sub-Section (2) of Section 391 of the Companies Act, 2013, states that the provisions of Chapter XX shall apply *mutatis mutandis* for closure of the place of business of a foreign company in India as if it were a company incorporated in India. These provisions have been brought into force on 15th December, 2016. Stakeholders have sought clarification with regard to scope of application of the said sub-section.

2. The matter has been examined in the Ministry and it has been noted that sub-section (1) and sub-section (2) of section 391 needs to be read harmoniously. Accordingly, it is clarified that provisions of sub-section (2) of Section 391 of the Companies Act, 2013 would apply only in case of a foreign company which has issued prospectus or IDRs pursuant to provisions of Chapter XXII of Companies Act, 2013.

3. This issues with the approval of Competent Authority.

Yours faithfully,



(Sudhir Kapoor)
Deputy Director
Ph.-23386065

Copy to:-

- (i) Guard File;
- (ii) E-Governance Section and Web Contents Manager to place this circular on the Ministry's web site.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 20th February, 2017

S.O. 554(E).—In exercise of the powers conferred by sub-section (5) and (6) of section 125 of the Companies Act, 2013 (18 of 2013) read with rule 6 of the Investor Education and Protection Fund Authority (Appointment of Chairperson and Members, holding meetings and provision for offices and officers) Rules, 2016, the Central Government hereby extends the period of tenure of Shri Amardeep Singh Bhatia, as Chief Executive Officer (Additional Charge) in the Investor Education and Protection Fund Authority for a further period of one year with effect from the 1st November, 2016 or till further orders, whichever is earlier.

[F. No. 05/05/2014-IEPF]

GYANESHWAR KUMAR SINGH, Jt. Secy.

Note: The principle notification was published in the Gazette of India, vide number S.O. 1648(E), dated 2nd May, 2016

SEBI UPDATES

CIRCULAR

SEBI/HO/IMD/DF2/CIR/P/2017/ 13

February 20, 2017

**All Mutual Funds/Asset Management Companies (AMCs)/
Trustee Companies/Boards of Trustees of Mutual Funds**

Sir/ Madam,

Subject: Participation in derivatives market by Mutual Funds

1. In terms of SEBI circular no. DNPD/Cir-29/2005 dated September 14, 2005, existing schemes of the Mutual Funds, whose Scheme Information Documents (SIDs) do not envisage investments in derivatives, are required to obtain positive consent from majority of the unit holders before commencing investment in derivatives. An exit option has to be provided to the dissenting unit holders and such option is to be kept open for a period of one month prior to the scheme commencing trading in derivatives.

2. SEBI has received representations that for existing schemes' whose SIDs do not currently envisage investments in derivatives, obtaining positive consent from majority of unit holders as mandated above is challenging on account of vast geographical spread of unit holders and hence the request for doing away with such requirements. This matter was discussed in Mutual Fund Advisory Committee, wherein it was recommended that for participation in derivatives market by such schemes, the requirement of obtaining positive consent should be dispensed with and all investors of the scheme should be given exit option with no exit load, in line with the guidelines for changes in any other fundamental attribute of the scheme.

3. Based on the above considerations and in view of prudent investment norms that are in place for investment in derivatives by Mutual Funds, it has been decided that for introduction of derivative investments in an existing scheme, whose SIDs do not currently envisage such investments, the requirement of obtaining positive consent from majority of unit holders shall no longer be applicable. However, prior to the scheme commencing participation in derivatives, all investors of such schemes shall be given exit option with no exit load for 30 days, as against exit option to only dissenting unit holders mandated earlier.

4. In view of the above, in point 2 of SEBI circular no. DNPD/Cir-29/2005 dated September 14, 2005, clause I) b shall be read as follows:

"Existing schemes of Mutual Funds, whose SIDs do not envisage investments in derivatives, may participate in derivatives market subject to the following conditions:

- i. The extent and the manner of the proposed participation in derivatives shall be disclosed to the unit holders.
- ii. The risks associated with such participation shall be disclosed and explained by suitable numerical examples.
- iii. Prior to commencing participation in derivatives, the scheme shall comply with the provisions of Regulation 18 (15A) of SEBI (Mutual Funds) Regulations, 1996 and all unit

holders shall be given at least 30 days to exercise option to exit at prevailing NAV without charging of exit load.”

5. All other provisions of the above mentioned circular remains unchanged.
6. This circular is applicable with immediate effect.

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with the provision of Regulation 77 of SEBI (Mutual Funds) Regulation, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,

Harini Balaji
General Manager

Tel no.: 022-26449372
Email: harinib@sebi.gov.in

CIRCULAR

SEBI/HO/IMD/DF2/CIR/P/2017/14

February 22, 2017

**All Mutual Funds/Asset Management Companies (AMCs)/
Trustee Companies/Boards of Trustees of Mutual Funds**

Sir/ Madam,

Subject: Prudential limits in sector exposure for Housing Finance Companies (HFCs)

1. Presently, the guidelines for sectoral exposure in debt oriented mutual fund schemes put a limit of 25% at the sector level and an additional exposure not exceeding 10% (over and above the limit of 25%) in financial services sector only to HFCs. In light of the role of HFCs especially in affordable housing and to further the Government's goal under Pradhan Mantri Awas Yojana (PMAY), it has now been decided to increase additional exposure limits provided for HFCs in financial services sector from 10% to 15%.

2. Therefore, in partial modification to SEBI circular SEBI/HO/IMD/DF2/CIR/P/2016/68 dated August 10, 2016, the para on sector exposure shall read as under:

"Mutual Funds/AMCs shall ensure that total exposure of debt schemes of mutual funds in a particular sector (excluding investments in Bank CDs, CBLO, G-Secs, TBills, short term deposits of Scheduled Commercial Banks and AAA rated securities issued by Public Financial Institutions and Public Sector Banks) shall not exceed 25% of the net assets of the scheme;

Provided that an additional exposure to financial services sector (over and above the limit of 25%) not exceeding 15% of the net assets of the scheme shall be allowed only by way of increase in exposure to Housing Finance Companies (HFCs);

Provided further that the additional exposure to such securities issued by HFCs are rated AA and above and these HFCs are registered with National Housing Bank (NHB) and the total investment/exposure in HFCs shall not exceed 25% of the net assets of the scheme.

Appropriate disclosures shall be made in Scheme Information Document (SID) and Key Information Memorandum (KIM) of debt schemes."

3. All other conditions specified in the above mentioned circular remain unchanged

4. This circular shall be applicable with immediate effect. This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with the provision of Regulation 77 of SEBI (Mutual Funds) Regulation, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,
Rajesh Gujjar
Deputy General Manager
Tel no.: 022-26449232
Email: rajeshg@sebi.gov.in

CIRCULAR

SEBI/HO/DMS/CIR/P/2017/15

February 23, 2017

All Recognized Stock Exchanges (excluding Commodity Derivatives Exchanges)/Depositories

Sir/Madam,

Sub: Amendment pursuant to comprehensive review of Investor Grievance Redressal Mechanism

In order to enhance the effectiveness of grievance redressal mechanism at Market Infrastructure Institutions (MIIs), SEBI has comprehensively reviewed the existing framework in consultation with the Stock Exchanges and Depositories (inter alia, issues relating to strengthening of arbitration mechanism and investor protection mechanism).

Based on the aforesaid review, it has been decided to revamp the grievance redressal mechanism at Stock Exchanges and Depositories (wherever applicable), as follows:-

1. Investor Grievance Resolution Panel (IGRP)/ Arbitration Mechanism

The existing IGRP/ arbitration mechanism to be modified as follows:

A. Public dissemination of profiles of arbitrators

In order to enhance transparency and also to provide choice to parties, Stock Exchanges/ Depositories shall disseminate information w.r.t. brief profile, qualification, areas of experience/ expertise, number of arbitration matters handled, pre-arbitration experience, etc. of the arbitrators on their website.

B. Submission of documents in soft copies

In order to assist the arbitrators in pronouncing comprehensive and speedy awards, Stock Exchanges/ Depositories shall make necessary arrangements in terms of hardware viz., computer, scanner, printer, etc. and required software's at exchange offices/ Investor Service Centers (ISCs) to facilitate the clients to type/ convert their documents into electronic format/ soft copy. Such electronic format/ soft copies shall be provided to the arbitrators along with original submissions in physical copies.

C. Review and Training of arbitrators

Investor Service Committee of the Stock Exchanges/ Depositories shall review the performance of the arbitrators annually and submit the review report to the Board of the Stock Exchange/ Depository. Training need of the arbitrators will be catered by National Institute of Securities Markets (NISM). Cost of training of arbitrators may be incurred from ISF.

D. Mechanism for implementation of award

Stock Exchanges/ Depositories shall create a common database of defaulting clients accessible to members/ depository participants across the Stock Exchanges/ Depositories.

For this purpose, a client may be identified as defaulter if the client does not pay the award amount to the member/depository participant as directed in the IGRP/ arbitration/ appellate arbitration order and also does not appeal at the next level of redressal mechanism within the timelines prescribed by SEBI or file an application to court to set aside such order in accordance with Section 34 of the Arbitration and Conciliation Act, 1996 (in case of aggrieved by arbitration/ appellate award)

E. Empanelment of arbitrators and segregation of arbitration and appellate arbitration panel.

There shall be separate panels for arbitration and appellate arbitration. Further, for appellate arbitration, at least one member of the panel should be a Retired Judge.

Stock Exchanges/ Depositories shall obtain prior approval of SEBI before empanelment of arbitrators/ appellate arbitrators.

F. Empanelment of IGRP members

Stock Exchanges shall empanel IGRP members and no arbitrator/ appellate arbitrator shall be empaneled as IGRP member.

G. Revision in professional fee of arbitrators

The arbitrator fee shall be upwardly revised to Rs.18,000/- (Rs. Eighteen thousand) per case. Consequent to this upward revision, the additional expenses attributable to a client over and above the fee structure specified in point J, shall be borne by the client (wherever applicable) and Stock Exchange/ Depository equally. The total expense attributable to the member/ depository participant has to be borne by the concerned member/ depository participant.

H. Place of arbitration/ appellate arbitration

In case award amount is more than Rs.50 lakh (Rs. Fifty lakh), the next level of proceedings (arbitration or appellate arbitration) may take place at the nearest metro city, if desired by any of the party involved. The additional cost for arbitration, if any, to be borne by the appealing party.

I. Arbitration/ appellate arbitration award

In order to safeguard the interest of the parties involved in arbitration and to ensure speedy implementation of the arbitration award, the rate of interest on the award passed by arbitrators shall be in compliance with Arbitration and Conciliation (Amendment) Act, 2015.

J. Speeding up grievance redressal mechanism

(i) In order to have faster implementation of award and to discourage delayed filing of arbitrations by members, the fee structure (exclusive of statutory dues - stamp duty, service tax, etc.) for filing arbitration reference shall be as follows:

Amount of Claim /Counter Claim, whichever is higher (Rs.)	If claim is filed within six months from the date of dispute	If claim is filed after six months from the date of dispute or after one month from the date of IGRP order, whichever is later	If the claim is filed beyond the timeline prescribed in column 3, (only for member)
≤ 10,00,000	1.3% subject to a minimum of Rs.10,000	3.9% subject to a minimum of Rs.30,000	Additional fee of Rs. 3,000/- per month over and above fee prescribed in column 3
>10,00,000 - 25,00,000≤	Rs. 13,000 plus 0.3% amount above Rs. 10 lakh	Rs. 39,000 plus 0.9% amount above Rs. 10 lakh	Additional fee of Rs. 6,000/- per month over and above fee prescribed in column 3
> 25,00,000	Rs. 17,500 plus 0.2 % amount above Rs. 25 lakh subject to maximum of Rs.30,000	Rs. 52,500 plus 0.6 % amount above Rs. 25 lakh subject to maximum of Rs.90,00	Additional fee of Rs. 12,000/-per month over and above fee prescribed in column 3

(ii) The filing fee will be utilized to meet the fee payable to the arbitrators.

(iii) A client, who has a claim / counter claim upto Rs. 10 lakh (Rs. Ten lakh) and files arbitration reference, will be exempted from filing the deposit.

(iv) Excess of filing fee over fee payable to the arbitrator, if any, to be deposited in the IPF of the respective Stock Exchange.

(v) In all cases, on issue of the arbitral award the stock exchange shall refund the deposit to the party in whose favour the award has been passed.

2. Investor Protection fund (IPF), Investor Service fund (ISF), Interest on IPF and Interest on ISF

A. IPF and ISF management structure

(i) In order to ensure effective utilization of interest income on IPF, supervision of utilization of interest on IPF will rest with the IPF Trust.

(ii) In order to have better management and control on the contributions and utilization of ISF fund, supervision of the same will rest with the Investor Service Committee.

B. Investor Protection fund corpus

In order to ensure the adequacy of corpus of the IPF, Stock Exchanges and Depositories shall periodically review the sources of the fund and the eligible compensation amount so as to recalibrate the fund to make suitable recommendation for enhancement.

C. Utilization of IPF, ISF, interest on IPF and interest on ISF

Modified guidelines for utilization of IPF, Interest on IPF, ISF and Interest on ISF would be as follows:

Sr. No.	Particulars	Utilization
1.	IPF	Stock Exchanges:

		To meet the legitimate investment claims of the clients of the defaulting members.
		<p>Depository:</p> <p>a) Promotion of investor education and investor awareness programmes through seminars, lectures, workshops, publications (print and electronic media), training programmes etc. aimed at enhancing securities market literacy and promoting retail participation in securities market;</p> <p>b) To utilize the fund for supporting initiatives of Depository Participants for promotion of investor education and investor awareness programmes;</p> <p>c) To utilize the fund in any other manner as may be prescribed/ permitted by SEBI in the interest of investors;</p> <p>d) To meet the legitimate claims of the beneficial owners, upto the maximum cap as to be determined by the depository, in case the same is not settled by the beneficial owner indemnity insurance;</p>
2.	Interest on IPF	<p>Stock Exchanges:</p> <p>a) To further strengthen the corpus, 75% of interest on IPF earned every year shall be treated as corpus of IPF;</p> <p>b) The balance 25% may be utilized by the exchange for promotion of investor education and investor awareness programmes through seminars, lectures, workshops, publications (print and electronic media), training programmes etc. aimed at enhancing securities market literacy, promoting retail participation in securities market and undertaking research activities related to securities market. Capital expenditure would be permissible only w.r.t. setting up of Investor Service Centre. However, no expenditure to be incurred on product promotion in any manner.</p> <p>c) In any other manner as may be prescribed/ permitted by SEBI in the interest of investors;</p>
		<p>Depositories:</p> <p>To further strengthen the corpus, 100% of Interest on IPF shall be treated as corpus of IPF</p>
3.	ISF	<p>Exchanges:</p> <p>a) ISF may be utilized only for promotion of investor education and investor awareness programmes through seminars, lectures, workshops, publications (print and electronic media), training programmes etc. aimed at enhancing securities market literacy and promoting retail participation in securities market;</p> <p>b) At least 50% should be spent at Tier II & Tier III cities;</p> <p>c) Cost of training of arbitrators;</p> <p>d) In any other manner as may be prescribed/ permitted by SEBI in the interest of investors</p>
4.	Interest on ISF	Exchanges: Interest on ISF shall be ploughed back to ISF

D. Admissibility of claim for making payment out of IPF in Stock Exchanges

In the event of default by the member, all transactions executed on one exchange platform shall be eligible for settlement from IPF (subject to maximum limit), subject to the appropriate norms laid down by the Defaulters' Committee.

E. Determination of legitimate claims from IPF for clients of the defaulter member

The Stock Exchanges shall ensure that once a member has been declared defaulter, the claim (s) shall be placed before the Defaulters' Committee for sanction and ratification. The Defaulters' Committee's advice w.r.t. legitimate claims shall be sent to the IPF Trust for disbursement of the amount immediately.

In case the claim amount is more than the coverage limit under IPF or the amount sanctioned and ratified by the Defaulters' Committee is less than the claim amount then the investor will be at liberty to prefer for arbitration mechanism for claim of the balance amount

F. Threshold limit for interim relief paid out of IPF in Stock Exchanges

In partial modification to Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 on "Investor Grievance Redressal Mechanism" the following changes are prescribed:

(i) Stock Exchanges, in consultation with the IPF Trust and SEBI, shall review and progressively increase the amount of interim relief available against a single claim for an investor, at least every three years.

(ii) The Stock Exchanges shall disseminate the interim relief limit fixed by them and any change thereof, to the public through a Press Release and also through its website.

(iii) In case, award is in favour of client and the member opts for arbitration wherein the claim value admissible to the client is not more than Rs. 20 lakhs (Rs. Twenty lakhs), the following steps shall be undertaken by the Stock Exchange:

a) In case the IGRP award is in favour of the client then 50% of the admissible claim value or Rs. 2.00 lakhs (Rs. Two lakhs), whichever is less, shall be released to the client from IPF of the Stock Exchange.

b) In case the arbitration award is in favour of the client and the member opts for appellate arbitration then 50% of the amount mentioned in the arbitration award or Rs. 3.00 lakhs (Rs. Three lakhs), whichever is less, shall be released to the client from IPF of the Stock Exchanges. The amount released shall exclude the amount already released to the client at clause (a) above.

c) In case the appellate arbitration award is in favour of the client and the member opts for making an application under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the appellate arbitration award, then 75% of the amount determined in the appellate arbitration award or Rs. 5.00 lakhs (Rs. Five Lakhs), whichever is less, shall be released to the client from IPF of the Stock Exchanges. The amount released shall exclude the amount already released to the client at clause (a) and (b) above.

d) Total amount released to the client through the facility of interim relief from IPF in terms of this Circular shall not exceed Rs.10.00 lakhs (Ten lakhs) in financial year.

3. Disciplinary Action Committee, Defaulters 'Committee, Investors Service Committee, Arbitration Committee and IPF Trust

(i) In partial modification to circular no. MRD/DoP/SE/Cir-38/2004 dated October 28, 2004 and CIR/MRD/DSA/33/2012 dated December 13, 2012, the functions and composition of the Disciplinary Action Committee, Defaulter's Committee, Investors Service Committee and IPF Trust will be as follows:

Sr. No.	Name of Committee	Functions handled	Composition
1.	Disciplinary Action Committee	<p>i. The Committee shall formulate the policy for regulatory actions including warning, monetary fine, suspension, withdrawal of trading terminal, expulsion, to be taken for various violations by the members of the exchange.</p> <p>ii. Based on the laid down policy, the Committee shall consider the cases of violations observed during inspection, etc. and impose appropriate regulatory action on the members of the exchange.</p> <p>iii. While imposing the regulatory measure, the Committee shall adopt a laid down process, based on the 'Principles of natural justice'.</p>	<p>i) The Committee shall have a minimum of 3 members and a maximum of 5 members;</p> <p>(ii) The Public Interest Directors shall form a majority of the Committee;</p> <p>(iii) A maximum of two key management personnel of the exchange can be on the committee and one of which shall necessarily be the Managing Director of the stock exchange;</p> <p>(iv) The Committee may also include independent external persons such as retired judge, etc.;</p> <p>v) SEBI may nominate members in the Committee, if felt necessary in the interest of securities market;</p>
2.	Defaulters' Committee	<p>i. To realize all the assets / deposits of the defaulter/ expelled member and appropriate the same amongst various dues and claims against the defaulter/ expelled member in accordance with the Rules, Byelaws and Regulations of the exchange.</p> <p>ii. In the event both the clearing member and his constituent trading member are declared defaulter, then the Defaulter's committee of the stock exchange and the Defaulter's Committee of the clearing corporation shall work together to</p>	<p>i) The Committee shall have a minimum of 3 members and a maximum of 5 members;</p> <p>(ii) The Public Interest Directors shall form a majority of the Committee;</p> <p>(iii) A maximum of two key management personnel of the exchange can be on the Committee;</p> <p>(iv) The Committee may also include independent external persons such as retired judge, etc.;</p> <p>(v) SEBI may nominate members in the Committee, if</p>

		<p>realise the assets of both the clearing member and the trading member.</p> <p>iii. Admission or rejection of claims of client/ trading members/ clearing members over the assets of the defaulter/ expelled member.</p> <p>iv. Advise in respect of the claims to the Trustees of the IPF on whether the claim is to be paid out of IPF or otherwise</p>	<p>felt necessary in the interest of securities market;</p>
3.	Investor Services Committee	<p>(i) Supervising the functioning of Investors' Services Cell of the Exchange which includes review of complaint resolution process, review of complaints remaining unresolved over long period of time, estimate the adequacy of resources dedicated to investor services, etc.;</p> <p>ii) Supervision of utilization of ISF;</p> <p>(iii) To have annual review of the arbitrators and arbitration/ awards (both quantum and quality of the awards).</p>	<p>i) The Committee shall have a minimum of 3 members and a maximum of 5 members;</p> <p>(ii) The Public Interest Directors shall form a majority of the Committee;</p> <p>(iii) A maximum of two key management personnel of the exchange can be on the Committee;</p> <p>(iv) The Committee may also include independent external persons;</p> <p>(v) SEBI may nominate members in the Committee, if felt necessary in the interest of securities market;</p>
4.	IPF Trust.	<p>(i) The IPF shall be administered by way of a Trust created for this purpose;</p> <p>(ii) The IPF Trust shall disburse the amount of compensation from IPF to the investor and such a compensation shall not be more than the maximum amount fixed for a single claim of an investor;</p> <p>(iii) The IPF Trust shall disburse the compensation to the investors as and when claims have been</p>	<p>i) The Trust shall have maximum 5 trustees;</p> <p>(ii) The trustee shall comprise of :</p> <p>a. Three Public Interest Directors;</p> <p>b .One representative from investor associations recognized by SEBI; and</p> <p>c .The principal regulatory compliance officer of the MII;(iii) The maximum tenure of a trustee (excluding the principal regulatory</p>

	<p>crystallized against a defaulter member;</p> <p>(iv) The IPF Trust need not wait for realization of assets of the defaulter member for disbursements of the claims;</p> <p>(v) Upon receipt of advice of the Defaulters 'Committee, for payment, the IPF Trust shall take necessary steps for disbursement of the amount at the earliest</p>	<p>compliance officer of the MII, whose trusteeship would be co-terminus with the service) shall be five years or as specified by SEBI;</p>
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ii) The Arbitration Committee of the Stock Exchanges shall stand discontinued.

4. The Stock Exchanges (excluding Commodity Derivatives Exchanges)/ Depositories are directed to:

a) make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision immediately;

b) bring the provisions of this circular to the notice of the members/ DPs and also to disseminate the same through their website; and

c) take steps to make the investors aware of the aforesaid changes/ modifications.

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, read with Section 9(2)(n) and Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and shall come into effect immediately. All other provisions of the relevant circulars will continue to be in force.

6. This circular is available on SEBI website at www.sebi.gov.in.

Yours faithfully,
Versha Agarwal
Deputy General Manager
Tel no.:-022-26449728
Email: vershaa@sebi.gov.in.

RBI UPDATES

Sovereign Gold Bonds 2016-17 – Series IV

RBI/2016-17/234
IDMD.CDD.No.2187/14.04.050/2016-17

February 23, 2017

The Chairman & Managing Director
All Scheduled Commercial Banks,
(Excluding RRBs)
Designated Post Offices
Stock Holding Corporation of India Ltd.(SHCIL)
National Stock Exchange of India Ltd. & Bombay Stock Exchange Ltd.

Dear Sir/Madam,

Sovereign Gold Bonds 2016-17 – Series IV

Government of India has vide its Notification F.No. 4(16)-B(W&M)/2016 dated February 23, 2017 (<https://rbidocs.rbi.org.in/rdocs/content/pdfs/SGBVII23022017.pdf>) announced that the Sovereign Gold Bonds 2016 -17- Series IV (“the Bonds”) will be open for subscription from February 27, 2017 to March 03, 2017. The Government of India may, with prior notice, close the Scheme before the specified period. The terms and conditions of the issuance of the Bonds shall be as follows:

1. Eligibility for Investment:

The Bonds under this Scheme may be held by a person resident in India, being an individual, in his capacity as such individual, or on behalf of minor child, or jointly with any other individual. The bond may also be held by a Trust, Charitable Institution and University. “Person resident in India” is defined under section 2(v) read with section 2(u) of the Foreign Exchange Management Act, 1999

2. Form of Security

The Bonds shall be issued in the form of Government of India Stock in accordance with section 3 of the Government Securities Act, 2006. The investors will be issued a Holding Certificate (Form C) (https://rbidocs.rbi.org.in/rdocs/content/pdfs/HCF23022017_C.pdf). The Bonds shall be eligible for conversion into de-mat form.

3. Date of Issue

Date of issuance shall be March 17, 2017.

4. Denomination

The Bonds shall be denominated in units of one gram of gold and multiples thereof. Minimum investment in the Bonds shall be one gram with a maximum limit of subscription of five hundred grams per person per fiscal year (April – March).

5. Issue Price

Price of the Bonds shall be fixed in Indian Rupees on the basis of simple average of closing price of gold of 999 purity published by the India Bullion and Jewellers Association Limited for the week (Monday to Friday) preceding the subscription period. The issue price shall be ₹ 50 per gram less than the nominal value.

6. Interest

The Bonds shall bear interest at the rate of 2.50 percent (fixed rate) per annum on the amount of initial investment. Interest shall be paid in half-yearly rests and the last interest shall be payable on maturity along with the principal.

7. Receiving Offices

Scheduled Commercial Banks (excluding RRBs), designated Post Offices (as may be notified), Stock Holding Corporation of India Ltd (SHCIL) and recognized stock exchanges viz., National Stock exchange of India Limited and Bombay Stock Exchange Ltd. are authorized to receive applications for the Bonds either directly or through agents.

8. Payment Options

Payment shall be accepted in Indian Rupees through cash up to a maximum of ₹ 20,000/- or Demand Drafts or Cheque or Electronic banking. Where payment is made through cheque or demand draft, the same shall be drawn in favour of receiving office.

9. Redemption

- i) The Bonds shall be repayable on the expiration of eight years from March 17, 2017, the date of issue of Gold bonds. Pre-mature redemption of the Bond is permitted from fifth year of the date of issue on the interest payment dates.
- ii) The redemption price shall be fixed in Indian Rupees on the basis of the previous week's (Monday – Friday) simple average closing price for gold of 999 purity, published by IBJA.
- iii) The receiving office shall inform the investor of the date of maturity of the Gold Bond one month before its maturity.

10. Repayment

The receiving office shall inform the investor of the date of maturity of the Bond one month before its maturity.

11. Eligibility for Statutory Liquidity Ratio (SLR)

Investment in the Bonds shall be eligible for SLR.

12. Loan against Bonds

The Bonds may be used as collateral for loans. The Loan to Value ratio will be as applicable to ordinary gold loan mandated by the RBI from time to time. The lien on the Bonds shall be marked in the depository by the authorized banks.

13. Tax Treatment

Interest on the Bonds shall be taxable as per the provisions of the Income-tax Act, 1961. The capital gains tax arising on redemption of SGB to an individual has been exempted. The indexation benefits will be provided to long term capital gains arising to any person on transfer of bond

14. Applications

Subscription for the Bonds may be made in the prescribed application form (Form 'A') (https://rbidocs.rbi.org.in/rdocs/content/pdfs/APPF23022017_A.pdf) or in any other form as near as thereto stating clearly the grams of gold and the full name and address of the applicant. The receiving office shall issue an acknowledgment receipt in Form 'B' (https://rbidocs.rbi.org.in/rdocs/content/pdfs/ARF23022017_B.pdf) to the applicant.

15. Nomination

Nomination and its cancellation shall be made in Form 'D' and Form 'E' (https://rbidocs.rbi.org.in/rdocs/content/pdfs/NFF23022017_DE.pdf), respectively, in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.

16. Transferability

The Bonds shall be transferable by execution of an Instrument of transfer as in Form 'F' (http://rbidocs.rbi.org.in/rdocs/content/pdfs/TFF23022017_F.pdf), in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.

17. Tradability of bonds

The Bonds shall be eligible for trading from such date as may be notified by the Reserve Bank of India.

18. Commission for distribution

Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the receiving offices on the applications received and receiving offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

19. All other terms and conditions specified in the notification of Government of India in the Ministry of Finance (Department of Economic Affairs) vide number F. No.4(13) W&M/2008, dated 8th October 2008 shall apply to the Bonds.

20. Operational guidelines relating to Sovereign Gold Bonds 2016-17 – Series IV are issued vide circular IDMD.CDD.No.2188/14.04.050/2016-17.

Yours faithfully,

(Rajendra Kumar)
General Manager



Sovereign Gold Bonds, 2016-17 - Series IV - Operational Guidelines

RBI/2016-17/235
IDMD.CDD.No.2188/14.04.050/2016-17

February 23, 2017

The Chairman & Managing Director
All Scheduled Commercial Banks
(Excluding RRBs)
Designated Post Offices
Stock Holding Corporation of India Ltd. (SHCIL)
National Stock Exchange of India Ltd. & Bombay Stock Exchange Ltd.

Dear Sir/Madam,

Sovereign Gold Bonds, 2016-17 - Series IV - Operational Guidelines

This has reference to the GoI notification F.No. 4(16)-B(W&M)/2016 and RBI circular IDMD.CDD.No.2187/14.04.050/2016-17 dated February 23, 2017 on the Sovereign Gold Bonds, 2016-17-Series IV. FAQs in this regard have been placed on our website (www.rbi.org.in). Operational guidelines with regard to this scheme are given below:

1. Application

Application forms from investors will be received at branches during normal banking hours from February 27, 2017 to March 03, 2017. Receiving Offices need to ensure that the application is complete in all respects as incomplete applications are liable to be rejected. Relevant additional details may be obtained from the applicants, where necessary. The Receiving Offices may make arrangements to enable the investors to apply online, in the interest of better customer service.

2. Joint holding and nomination

Multiple joint holders and nominees (of first holder) are permitted. Necessary details may be obtained from the applicants as per practice.

3. Know-Your-Customer (KYC) requirements

Know-Your-Customer (KYC) norms shall be the same as that for purchase of physical form of gold. Identification documents such as passport, Permanent Account Number (PAN) Card, Voter's Identity Card, Aadhaar card shall be required. In case of minors only, the bank account number may also be considered as valid for KYC verification. KYC will be done by the issuing banks/SHCIL offices/Post Offices/agents.

4. Interest on application money

Applicants will be paid interest at prevailing savings bank rate from the date of realization of payment to the settlement date, i.e. the period for which they are out of funds. In case the applicant's bank account is not with the receiving bank, the interest has to be credited by electronic fund transfer to the account details provided by the applicant.

5. Cancellation

Cancellation of application is permitted till the closure of the issue, i.e., March 03, 2017. Part cancellation of submitted request for purchase of gold bonds is not permitted. No interest on application money needs to be paid if the application is cancelled.

6. Lien marking

As the bonds are government securities, lien marking, etc. will be as per the extant legal provisions of Government Securities Act, 2006 and rules framed there under.

7. Agency arrangement

Scheduled Commercial Banks may engage NBFCs, NSC agents and others to collect application forms on their behalf. Banks may enter into arrangements or tie-ups with such entities.

Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the receiving offices on the applications received and receiving offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

8. Processing through RBI's e-Kuber system

Sovereign Gold Bonds will be available for subscription at the branches of scheduled commercial banks and designated post offices through RBI's e- Kuber system. The e-Kuber system can be accessed either through Ininet or Internet. The Receiving Offices need to enter the data or carry out bulk upload for the subscriptions received by them. They may ensure accuracy of entry of data to prevent occurrence of any inadvertent errors. An immediate confirmation will be provided to them for receipt of application. In addition, a confirmation scroll will be provided for file uploads to enable the Receiving Offices to update their database. On the date of allotment, i.e., March 17, 2017, Certificates of Holding will be generated for all the subscriptions in the name of the sole/principal holder. The Receiving Offices can download the same and take printouts. The Certificates of Holding will also be sent through e-mail to the investors who have provided their email address. The securities will be credited in their de-mat accounts within 2-3 days of allotment, subject to matching of particulars furnished in the application with the Depositories' records.

9. Printing Certificates of Holding

Holding Certificate needs to be printed in colour on A4 size 100 GSM paper.

10. Servicing and follow up

Receiving Offices, i.e., branches of the Scheduled Commercial Banks, designated post offices, SCHIL and stock exchanges (NSE Ltd and BSE) will "own" the customer and provide necessary services with regards to this bond e.g. update contact details, receive requests for premature encashment, etc. Receiving Offices will be required to preserve applications till the bonds are matured and are repaid.

11. Tradability

The Bonds shall be eligible for trading on a date notified by the Reserve Bank of India. (It may be noted that only bonds held in demat form with depositories can be traded in stock exchanges)

12. Contact details

Any queries/clarifications may be e-mailed to the following:

(a) Sovereign Gold Bond related: (<mailto:sgb@rbi.org.in>)

(b) IT related: (<mailto:ekuberhelpdesk@rbi.org.in>)

Yours faithfully,

(Rajendra Kumar)
General Manager



Master Direction – Money Transfer Service Scheme (MTSS)

RBI/FED/2016-17/52
FED Master Direction No.1/2016-17

February 22, 2017

To

All Authorised Persons who are Indian Agents under the Money Transfer Service Scheme

Madam / Dear Sir,

Master Direction – Money Transfer Service Scheme (MTSS)

Money Transfer Service Scheme (MTSS) is a quick and easy way of transferring personal remittances from abroad to beneficiaries in India

2. Reserve Bank has the powers under Section 10(1) of the Foreign Exchange Management Act, 1999, to accord necessary permission (authorization) to any person to act as an Indian Agent under the Money Transfer Service Scheme.

3. The directions relating to Money Transfer Service Scheme are being issued in a consolidated form through the Master Direction (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10868&Mode=0#MD>). Reporting instructions can be found in the Master Direction on Reporting. It may be noted that whenever necessary, Reserve Bank shall issue directions to Authorised Persons who are Indian Agents under the MTSS through A.P. (DIR Series) Circulars in regard to any change in the rules, regulations, notifications, directions or orders or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents. The Master Direction issued herewith shall be simultaneously amended suitably.

Yours faithfully,

(Shekhar Bhatnagar)
Chief General Manager-in- Charge

INCOME TAX UPDATES

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


Government of India
Ministry of Finance
Department of Revenue (CBDT)

New Delhi, the 21st of February, 2017

NOTIFICATION

S.O.....(E).-In exercise of the powers conferred by sub-section (2) of section 138 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to all the relevant factors, hereby makes the following amendment in the notification of Government of India in the Ministry of Finance, Department of Revenue (Central Board of Direct Taxes) published in the Gazette of India, Part II, Section 3, Sub-section(ii) vide number S.O. 576(E), dated the 23rd of May, 2003, namely:-

In the said notification, in the proviso, in clause (ii), for the words and figures, "the notifications issued under section 138 from time to time", the words, brackets and figures, "provisions of sub-section (1) of section 138 of the Act" shall be substituted and shall be deemed to have been substituted with effect from 23rd May, 2003.


(Rohit Garg)
Director-ITA.II, CBDT

The Explanatory Memorandum as appended in Annexure.

Note:- The Principal notification was published in the Gazette of India, Part II, Section 3, Sub-section (ii) vide notification S.O. 576(E) dated the 23rd May, 2003 and the same has not been amended so far.


(F.No. 225/120/2016-ITA.II)

Notification No. 2/2017

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

Copy to:-

1. PPS to FM/Dir(FMO)/OSD to MoS(R)/PPS to RS
2. Chairman & All Members, CBDT
3. All Pr.CCsIT/DGsIT
4. O/o Pr. DGIT(Systems) for placing on the website: incometaxindia.gov.in
5. ITCC, Central Board of Direct Taxes (4 copies)
6. Addl. CIT, Data base Cell for uploading on Departmental Website
7. Guard file


(Rohit Garg)
Director-ITA.II, CBDT

Annexure

Explanatory Memorandum

Notification No. 137 dated 23.05.2003 SO(E)-576 issued by the Central Govt., in exercise of its powers under section 138(2) of the Income-tax Act, 1961 ('Act'), prohibited providing information/record/ document to any person or authority by the Income-tax Authorities. While the said notification prescribed a general prohibition in furnishing of information/documents before any person/authority, two exceptions were, however, mentioned where the information can be made available. The first exception pertained to providing information by DGIT (Systems) in respect of records or data related to PAN, tax deduction account number and computerization of income-tax records of taxpayers. The second exception was related to disclosure of information in accordance with notifications issued under section 138 of the Act from time to time.

As notification dated 23.05.2003 was issued under sub-section(2) of Section 138, which starts with a non-obstante clause, the implication appeared to be that the information could be provided only to the authorities/ persons which are so notified u/s 138(1)(a)(ii) of the Act by the Central Government while disclosure of information under section(s) 138(1)(a)(i) and section 138(1)(b) of the Act was prohibited. Therefore, an apprehension was raised by some of the stakeholders that the said notification puts restriction on the powers of the authorities mentioned in sub sections (1)(a)(i) & (1)(b) of section 138 of the Act, thereby, making these provisions virtually redundant.

Therefore, in order to remove any ambiguity in interpretation of the said notification, Central Government, with retrospective date, has decided to clarify that clause (ii) of the proviso in the notification dated 23/05/2003 would mean the disclosure of any information in accordance with the provisions of section 138(1) from time to time.

The above partial amendment in notification dated 23.05.2003, would, in effect, remove the restraint placed by the notification dated 23.05.2003 and harmonize it with provisions of section 138 of the Act.

Rg

MINISTRY OF FINANCE
(Department of Revenue)
[CENTRAL BOARD OF DIRECT TAXES]
NOTIFICATION
New Delhi, the 23rd February, 2017
INCOME-TAX

S.O. 600(E).-In exercise of the powers conferred by clause (48) of section 10 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to the national interest, hereby notifies for the purposes of the said clause, the National Iranian Oil Company, as the foreign company and the Memorandum of Understanding entered between the Government of India in the Ministry of Petroleum and Natural Gas and the Central Bank of Iran on the 20th day of January, 2013 as modified by the minutes of meeting signed on the 16th August, 2016 between the Government of India, Ministry of Finance, Department of Economic Affairs and Bank Markazi Jomhouri Islami Iran, as the agreement subject to the condition that the said foreign company shall not engage in any activity in India, other than the receipt of income under the agreement aforesaid.

2. This notification shall be deemed to have come into force from the 16th day of August, 2016.

[Notification No. 13/2017/ F. No. 370142/2/2017-TPL]
RAJESH KUMAR KEDIA, Director

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

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

New Delhi, the 23rd February, 2017

S.O. 618(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 for the said clause, Assam Electricity Regulatory Commission, constituted by the Government of Assam, in respect of the following specified income arising to that Commission, namely:-

- (a) amount received in the form of government grants;
- (b) amount received as license fees, petition fees and fines; and
- (c) interest earned on government grants, license fees, petition fees and fines kept as deposits or fixed deposits with banks.

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

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income remain unchanged throughout the financial years; and
- (c) shall file returns 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 applicable for the financial year 2016-17 to 2020-21.

[Notification No. 14/2017/F. No. 196/30/2016-ITA-I]

DEEPSHIKHA SHARMA, Director

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION
New Delhi, the 23rd February, 2017
(INCOME-TAX)

S.O. 617(E).— Whereas the Central Government in exercise of the powers conferred by clause (iii) of subsection (4) of Section 80-IA of the Income-tax Act, 1961(43 of 1961)(hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 354(E), dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Ascendas IT Park (Chennai) Ltd. having its registered office at 1st Floor, Pinnacle Building, International Tech Park, CSIR Road, Taramani., Chennai- 600 113 has developed an industrial park located at Survey No. TS 8/2, Block No.9, Kanagam Village, Mambalam Guindy Taluk, Survey No. TS 1/6, Block NO.7, Thiruvanmiyur Village, Mylapore Triplicane, Chennai, Tamil Nadu-600 113.

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/19/2006-ID-II dated 15-03-2016.

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Ascendas IT Park (Chennai) Ltd, as an industrial park for the purposes of the said clause (iii) subject to the terms and conditions mentioned in the annexure of the notification.

For Annexure refer link:

http://www.incometaxindia.gov.in/communications/notification/notification15_2017.pdf

[Notification No. 15 /2017, F.No.178/7/2016-ITA-I]
DEEPSHIKHA SHARMA, Director (ITA-I)

Circular No 08 of 2017

F. No. 142/11/2015-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Dated 23rd February, 2017

Subject: Clarification for determination of Place of Effective Management (POEM) of a company, other than an Indian company-reg.

The concept of POEM for deciding the residential status of a company, other than an Indian company, was introduced by the Finance Act, 2015. The existing provision of clause (ii) of sub section (3) of section 6 of the Income-tax Act, 1961 (the Act) shall come into effect from 1st April, 2017 and accordingly, applies to Assessment Year 2017-18 and subsequent years. Guiding Principles for determining POEM of a company were issued by Circular No. 6 of 2017 on 24th January, 2017. Press Release on POEM guidelines dated 24th January, 2017 has, *inter alia*, stated that the POEM guidelines shall not apply to a company having turnover or gross receipts of Rs. 50 crores or less in a financial year.

2. In view of above, it is clarified that existing provision of clause (ii) of sub section (3) of section 6 of the Act, shall not apply to a company having turnover or gross receipts of Rs. 50 crores or less in a financial year.


(Rajesh Kumar Kedia)
Director (Tax Policy & Legislation)

Copy to:-

1. The Chairman, Members and officers of the CBDT of the rank of Under Secretary and above
2. PS to the Revenue Secretary
3. All Pr. Chief Commissioners of Income-tax & All Directors General of Income-tax with a request to bring to attention of all officers in their regions/ charges
4. Pr. Director General of Income Tax, NADT, Nagpur
5. Pr. DGIT (Systems)/ Pr. DGIT (Vigilance)/ Pr. DGIT (Admn)/ Pr. DGIT (L&R)/
6. ADG (PR, Pi& OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per usual mailing list (100 copies)
7. C&AG, New Delhi
8. Web Manager for uploading on www.incometaxindia.gov.in & placing in public domain
9. Data Base Cell for uploading on www.irsofficeronline.gov.in
10. Guard File

Director (Tax Policy & Legislation)

SERVICE TAX UPDATES

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

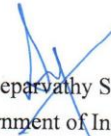
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Notification No.08 /2017-Service Tax

New Delhi, the 20th of February, 2017
1 Phalgun, 1938 Saka

G.S.R. (E).- Whereas, the Central Government is satisfied that in the period commencing on and from the 1st of July 2012 and ending with the 31st of March, 2015 (hereinafter referred to as the said period) according to a practice that was generally prevalent, there was non levy of service tax, on the services by the operators of Common Effluent Treatment Plant by way of treatment of effluent and this service was liable to service tax, in the said period, which was not being paid according to the said practice.

Now, therefore, in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 (1 of 1944), read with section 83 of the Finance Act, 1994 (32 of 1994), the Central Government hereby directs that the service tax payable on the said services by the operators of Common Effluent Treatment Plant, under section 66B of the Finance Act, 1994 but for the said practice, during the said period, shall not be required to be paid.


(Dr. Sreeparvathy S.L.)
Under Secretary to the Government of India
[F.No. 137/28/2016 -Service Tax]

[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
Central Board of Excise and Customs

Notification No.09 /2017-Service Tax

New Delhi, the 28th February, 2017
Phalgun 9,1938 Saka

G.S.R. (E).- Whereas, the Central Government is satisfied that in the period commencing on and from the 1st day of July, 2012 and ending with the 31st day of March, 2015 (hereinafter referred to as the said period), according to a practice that was generally prevalent, there was non levy of service tax, on the services by way of admission to a museum and this service was liable to service tax, in the said period, which was not being paid according to the said practice.

Now, therefore, in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 (1 of 1944), read with section 83 of the Finance Act, 1994 (32 of 1994), the Central Government hereby directs that the service tax payable on the services by way of admission to a museum under section 66B of the Finance Act, 1994 but for the said practice, during the said period, shall not be required to be paid.

[F.No. 137/68/2016 -Service Tax]

(Dr. Sreepathy S.L.)
Under Secretary to the Government of India

EXCISE UPDATES

Circular No. 1052/01/2017-CX

F. No. 116/29/2015-CX.3
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi, dated the 23rd February, 2017

To

The Principal Chief Commissioners/ Chief Commissioners of Central Excise (All),
The Principal Chief Commissioners/ Chief Commissioners of Central Excise and Service
Tax (All),
The Director General, DGCEI,
Webmaster.

Sub: Classification of articles of paper and printing industry- regarding

Madam/ Sir,

Representations have been received from trade associations that consequent upon insertion of Chapter note 14 (w.e.f 28.05.2012) to the Chapter 48 of Central Excise Tariff Act, 1985 disputes have cropped up in respect of classification of **railway/bus/other tickets/passes, railway ticket rolls and bus ticket rolls, mark sheets/certificates, OMR Sheets/ Answer Books with OMR, Answer booklets, inland letter cards, passbooks, applications forms, paper outer strip seal, Railway receipt (RR) and practical notebook**. Also, reports received from field formations suggest that there is divergent practice of assessment of these goods. It is therefore, proposed to clarify the classification of these goods to ensure uniformity in practice of assessment across the country.

2. In this connection, statutory provisions are as under:

- a) As per Rule 3 (c) of General Rules for the interpretation of the Schedule, "*when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration*".
- b) As per Rule 4 of General Rules for interpretation of the Schedule, "*goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin*".
- c) As per Chapter note 10 of Chapter 48, heading 4820 does not cover loose sheets or cards, cut to size, whether or not printed, embossed or perforated.
- d) As per Chapter note 12 of chapter 48, except for the goods of heading 4814 or 4821, paper, paperboard, cellulose wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of goods, fall in Chapter 49.
- e) As per Chapter note 14 (inserted on 28-05-2012) paper and paper products of heading nos. 4811, 4816 or 4820 intended to be used for further printing or

- writing are classifiable in their respective headings even if printing is merely incidental to the primary use of goods.
- f) HSN explanatory note (2) to heading 48.20 excludes educational workbooks, sometimes called writing books, with or without narrative texts, which contain printed textual questions or exercises not incidental to their primary use as workbooks and usually with spaces for completion in manuscript. Further, as per HSN explanatory notes (A) to heading 4901, “...*literary works of all kinds, textbooks (including educational workbooks sometimes called writing books) with or without narrative texts which contain questions or exercises (usually with spaces for completion in manuscript); technical publications....*” are classifiable under this heading.
 - g) Also, as per HSN explanatory notes to heading 49.01 printed cards bearing personal greetings, messages or announcements (heading 49.09), and printed forms which require the insertion of certain additional information for completion are excluded from this heading.
 - h) As per explanatory notes to heading 4907 (F), “*Stock, share or bond certificates and similar documents of title are formal documents issued, or for issue, by public or private bodies conferring ownership of, or entitlements to, certain financial interests, goods or benefits named therein. Apart from the certificates mentioned these documents include letters of credit, bills of exchange, travelers’ cheques, bills of lading, title deeds and dividend coupons. They usually require completion and validation.*”
 - i) As per explanatory note to heading 49.11, “*Certain printed articles may be intended for completion in manuscript or typescript at the time of use but remain in this heading provided they are essentially printed matter. Thus, printed forms (e.g., magazine subscription forms), blank multi-coupon travel (e.g., air, rail and coach) tickets, circulars, letters, identity documents and cards and other articles printed with messages, notices, etc., requiring only the insertion of particulars (e.g dates and names) are classified in this heading.....*”. The heading 4911 also includes tickets for admission to places of entertainment (e.g., cinemas, theatres and concerts), tickets for travel by public or private transport and other similar tickets.
3. Hon’ble Apex Court in the case of **Holostick India Ltd. V/s Commissioner of Central Excise 2004 (2015 (318) E.L.T. 529 (S.C))** has held that holograms would not fall under chapter 39 though they had the self- adhesive property and were primarily goods made of plastic, yet due to the security features of the stickers, the said holograms will be placed under chapter 49. The reason for such a classification was that the security features gave the hologram their essential feature.
4. In the light of above statutory provisions and decision of the Hon’ble Apex Court, classification of the goods ibid was examined and it is clarified as under:
- a) **Railway/ bus/ other tickets/ passes-** (i) These are loose sheets or cards, cut to size and therefore are not covered under heading 4820 and also the provision of Chapter note 14 is

inapplicable in the matter. Printing is not merely incidental to the primary use these goods. Printing alone brings these goods in existence. Explanatory note to heading 49.11 specifically covers these goods. Therefore, these goods are classifiable under heading 4911.

(ii) Similarly, railway ticket rolls, bus ticket rolls and like goods, which have cut/identifiable marks for separation of railway tickets/ bus tickets therefrom and tickets are easily identifiable therein, are also classifiable under heading 49.11.

b) **Mark sheets/ certificates-** These are loose sheets, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. The printing on these documents gives their essential character and on being issued (after completion and validation) by the appropriate authority they have fiduciary value in excess of the intrinsic value. In view of explanatory notes to heading 4907 (F) they are classifiable under heading 4907.

c) **OMR sheets-** Like mark sheets and certificates these are loose sheets cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. The printing on these documents gives their essential character. In view of explanatory note to heading 4911 they are classifiable under heading 4911.

d) **Answer books with or without OMR, answer booklets and passbooks-** These are not loose sheets, cut to size and therefore these are not out of the purview of heading 4820. Printing on these goods is merely incidental and such goods are intended to be used for further printing or writing. Answer books with or without OMR and answer booklets are intended for completion in manuscript while passbooks are intended for completion in manuscript or typescript. Provisions of Chapter note 12 and 14 of Chapter 48 and provisions of Rule 4 of General Interpretative Rules are applicable in the matter and therefore these are classifiable under heading 4820.

e) **Inland letter cards-** These are loose sheets or cards, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. These Inland letter cards are printed with all particulars and shall not undergo any further printing or writing. They contain personal information like notices, reminders etc. Sometimes these cards require only insertion of particulars like names and addresses. In the situation, where printing on inland letter cards is not merely incidental, goods are classifiable under heading 4911. However, plain letter cards are classifiable under heading 4817, which reads as “envelopes, letter cards, plain postcards and correspondence cards, of paper or paper boards...”

f) **Application forms-** These are for example bank account opening forms, forms of telecom companies, education institutions, insurance company forms and similar forms printed on specific order of the concerned bank, telephone companies etc. These are loose sheets, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. Printing on these forms is not merely incidental. In view of explanatory note to heading 4901 and 4911 these forms are classifiable under heading 4911.

g) **Paper outer strip seals-** These strips are used to seal EVMs (electronic voting machines) and are used by the election commission. For example State Election Commission, Haryana

is printed on these strip seals. These are basically stickers having a self-adhesive feature where printing brings the product into existence. They have security features like guilloche patterns and anti-photocopy features. Therefore in view of printing not merely incidental and decision of Hon'ble Apex Court in the matter of Holostick India Ltd ibid, these strip seals are classifiable under heading 4911.

h) **Railway Receipts (RRs)** – These are continuous computer stationery (4820) and also a document of title (4907). They have security numbering with special features like specific and patterns digit size printed by mechanical boxes using penetrating inks and also hatching of Indian Railway logo in the background. Printing on these receipts is not merely incidental. In view of Rule 3 (c) of General Rule for the interpretation of the Schedule, Hon'ble Apex Court decision in the case of Holostick India Ltd ibid and explanatory notes to heading 4907 (F), these are classifiable under heading 4907.

i) **Practical notebook**- This notebook contains some texts, questions and spaces for exercises. In view of explanatory notes to heading 4820 and explanatory notes (A) to heading 4901, this is classifiable under heading 4901. However, practical notebook which have merely certain questions followed by blank spaces for writing are classifiable under heading 4820 only.

5. Field formations may be suitably informed. Past instructions and circulars on the subject shall stand amended to the extent of conflict with the above circular. Hindi version would follow.



23.2.2017

(Rohan)

Under Secretary to the Government of India

DGFT UPDATES

[To be published in the Gazette of India Extraordinary Part-II, Section - 3, Sub-Section (ii)]

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 39/2015-2020
New Delhi, Dated: 22 February, 2017

Subject: Amendment in Para 4.44 of Chapter 4 of the Foreign Trade Policy(FTP) 2015-20

S.O. (E): In exercise of powers conferred by Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby makes following amendments in para 4.44 of Chapter 4 of Foreign Trade Policy 2015-20.

1. The existing Para 4.44 of FTP 2015-20 reads as under:

4.44 Export of Cut & Polished Diamonds with Re-import Facility at Zero Duty

" An exporter (with annual export turnover of Rs 5 crores for each of the last three years) may export cut & polished diamonds (each of 0.25 carat or above) to any of the agencies/laboratories mentioned under paragraph 4.74 of Handbook of Procedures with re-import facility at zero duty within 3 months from the date of export. Such facility of reimport at zero duty will be subject to guidelines issued by Central Board of Customs & Excise, Department of Revenue".

2. The amended Para 4.44 of FTP 2015-20 is to be read as under:

4.44 Export of Cut & Polished Diamonds with Re-import Facility at Zero Duty

"An exporter (with annual export turnover of Rs 5 crores for each of the last three years) or the authorised offices / agencies in India of laboratories mentioned under paragraph 4.74 of Handbook of Procedures may export cut & polished diamonds (each of 0.25 carat or above) to any of the agencies/laboratories mentioned under paragraph 4.74 of Handbook of Procedures 2015-20 with re-import facility at zero duty within 3 months from the date of export. Such facility of export and subsequent reimport at zero duty will be subject to guidelines issued by Central Board of Customs & Excise, Department of Revenue".

3. **Effect of Notification:** The facility for export and re-import of cut and polished diamonds at zero duty for the purpose of certification and grading has been extended to the authorised offices / agencies in India of laboratories mentioned under paragraph 4.74 of Handbook of Procedures 2015-20.


[Ajay Kumar Bhalla]
Director General of Foreign Trade
Email: dgft@nic.in

(Issued from F.No. 01/94/180/52/AM16/PC-4)

[To be published in the Gazette of India Extraordinary Part-II, Section - 3, Sub-Section (ii)]

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 40/2015-2020
New Delhi, Dated: 23 February, 2017

Subject: Amendment in Paragraph 4.34(i) of Chapter 4 of the Foreign Trade Policy (FTP) 2015-2020.

S.O. (E): In exercise of powers conferred by Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby makes following amendments in Para 4.34 (i) of Chapter 4 of Foreign Trade Policy 2015-20.

2. Paragraph 4.34 (i) of FTP 2015-20 is amended to read as under:

Exporter of gold / silver / platinum jewellery and articles thereof including mountings and findings may obtain gold / silver / platinum as an input for export product from Nominated Agency, in advance or as replenishment after export in accordance with the procedure specified in this behalf. ***In case where CENVAT credit facility on Precious metal (Gold, Silver and Platinum) as input has been availed and Gems and Jewellery products are exported availing rebate, then replenishment of Precious metal shall be allowed provided that such inputs procured duty free are used in the manufacture of dutiable goods in the factory/unit, where exported Gems and Jewellery products were manufactured. Sale/transfer of such duty free Precious metal inputs shall not be allowed.***

3. **Effect of Notification:** Paragraph 4.34(i) of FTP 2015-20 related to replenishment of Precious metals is amended.


[Ajay Kumar Bhalla]
Director General of Foreign Trade
Email:dgft@nic.in

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BMC ADVISORS

DESTINATION FOR PERFECTION

(Corporate Laws and Intellectual Property Rights
Consultants)

Delhi | Mumbai | Pune | Kanpur

Corporate Office: 63/12, First Floor, Main Rama
Road, New Delhi-110015

Ph: +91 11 25101016/17, **Mob:** +91-9971666825

Email: brijesh@bmcadvisors.in,
brijesh@brijeshmathur.com

Website: www.bmcadvisors.in