



BMC Advisors



What's Inside

- MCA Update
- RBI Update
- Income tax Update
- IPR Update
- DGFT Update
- Excise Update
- Custom Update

WEEKLY UPDATES

JUNE 5TH, 2017 - JUNE 11TH, 2017

INDEX

MCA UPDATE	
Clarification regarding transmission of Securities by Operation of Law	4
RBI UPDATE	
Issuance of Rupee denominated bonds overseas	5-6
Individual Housing Loans: Rationalisation of Risk-Weights and Loan to Value (LTV) Ratios	7
Section 24 and Section 56 of the Banking Regulation Act, 1949 - Maintenance of Statutory Liquidity Ratio (SLR)	8
Recording of PPO Number in the passbook of Pensioners / Family Pensioners	9
Aligning roadmap for unbanked villages having population more than 5000 with revised guidelines on Branch Authorisation Policy	10
Master Direction - Information Technology Framework for the NBFC Sector	11
INCOME TAX UPDATE	
Notification No. 43/2017[F. No. 370142/09/2017-TPL] / SO 1789(E)	12-14
Notification No. 44/2017 [F.No.370142/11/2017-TPL] / SO 1790(E)	15
Income-tax (11th Amendment) Rules, 2017 - Amendment of Income tax Rules to Enable PAN holders to File Form 26B to claim refund of TDS deducted under section 194-IA	16
Income-tax (12th Amendment) Rules, 2017	17-22
IPR UPDATE	
Public Notice: Stakeholders meeting at Delhi Patent Office on 19th June 2017	23
DGFT UPDATE	
Amendment in Para 9 (B) of General Notes regarding Import Policy of ITC (HS), 2017, Schedule-I (Import Policy).	24
EXCISE UPDATE	
Appointment of Central Excise officers and vesting them with powers under Central Excise Act 1944 and under Chapter V of Finance Act 1994	25
Territorial Jurisdiction of Principal Chief Commissioners/Chief Commissioners, Principal Commissioners/Commissioners, Commissioner (Appeals), Commissioner (Audit)	26
Delegation of powers for the purpose of assignment of adjudication of show cause notices	27
CUSTOM UPDATE	
Regarding classification of Dioctyl Orthophthalate (DEPH)	28-29

MCA UPDATES

General Circular No. 07/2017

No. 05/23/2016-IEPF
Government of India
Ministry of Corporate Affairs

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

Dated: 05th June, 2017

To ,
All Stakeholders,
Nodal Officer's (IEPF) of Concerned Companies
All Regional Director's & Registrar of Companies of Min of Corp. Affairs

Subject: Clarification regarding transmission of Securities by Operation of Law - Reg.

Sir/Madam,

Clarity has been sought by stakeholders w.r.t. issue of duplicate shares under Rule 6 (3)(d) of the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016. It has been stated that since transfer of shares to IEPF under section 124 (6) of the Companies Act, 2013 read with rules referred to above takes place on account of operation of law hence the procedure followed during transmission of shares may be followed in such cases and duplicate shares need not be issued in such cases. The suggestion made by the stakeholders has been examined in the Ministry and it is clarified that the procedure similar to what is followed in case of transmission of shares may be followed by companies while transferring shares to IEPF Authority pursuant to section 124 (6) read with applicable rules.

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

Yours faithfully,

(Monika Gupta)
Deputy Director

Copy to:

- (1) CEO, IEPF Authority
- (2) Sr. AO, IEPF Authority
- (3) E-Governance Cell/MCA and to place this circular on Ministry's Authority website and for necessary coordination with M/s Infosys Ltd.
- (4) Guard File.

RBI UPDATES

Issuance of Rupee denominated bonds overseas

RBI/2016-17/316

A. P. (DIR Series) Circular No.47

June 7, 2017

To

All Authorised Dealer Category - I Banks

Madam/Sir

Issuance of Rupee denominated bonds overseas

Attention of Authorized Dealer Category - I (AD Category - I) banks is invited to Sr. No. 3, 4 and 5 of Annex to A.P.(DIR Series) Circular No.17 dated September 29, 2015, paragraph No. 2, 3, 4 and 5 of A.P. (DIR Series) Circular No. 60 dated April 13, 2016, paragraph No. 2 of A.P. (DIR Series) Circular No. 31 dated February 16, 2017 and paragraph No. 3.2, 3.3.1, 3.3.3 and 3.3.4 of Master Direction No.5 dated January 1, 2016 on 'External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers' (Master Direction), as amended from time to time, on the provisions of available routes of borrowing, recognized lender and all-in-cost, etc. under the framework for issuance of Rupee denominated bonds overseas.

2. On a review of the laid down framework for issuance of Rupee denominated bonds overseas (Masala Bonds) and with a view to harmonize the various elements of the ECB framework, it has been decided that any proposal of borrowing by eligible Indian entities by issuance of these bonds will be examined at the Foreign Exchange Department, Central Office, Mumbai. Further, it has also been decided to revise the provisions in respect of maturity period, all-in-cost ceiling and recognized lenders (investors) of Masala Bonds as under:

(i) Maturity period: Minimum original maturity period for Masala Bonds raised upto USD 50 million equivalent in INR per financial year should be 3 years and for bonds raised above USD 50 million equivalent in INR per financial year should be 5 years.

(ii) All-in-cost ceiling: The all-in-cost ceiling for such bonds will be 300 basis points over the prevailing yield of the Government of India securities of corresponding maturity.

(iii) Recognised investors: Entities permitted as investors under the provisions of paragraph 3.3.3 of the Master Direction but should not be related party within the meaning as given in Ind-AS 24.

3. All other provisions of aforesaid circulars dated September 29, 2015, April 13, 2016 and February 16, 2017 remain unchanged. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers.

4. The changes / revised instructions in respect of issuance of Rupee denominated bonds will be applicable from the date of issuance of this circular.

5. Relevant paragraphs of the Master Directions No. 5 dated January 01, 2016 issued by RBI are being updated to reflect the changes.

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

Yours faithfully
(J K Pandey)
Chief General Manager



Individual Housing Loans: Rationalisation of Risk-Weights and Loan to Value (LTV)

Ratios

RBI/2016-17/317

DBR.BP.BC.No.72/08.12.015/2016-17

June 7, 2017

All Commercial Banks
(Excluding Regional Rural Banks and Local Area Banks)

Madam/Dear Sir,

Individual Housing Loans: Rationalisation of Risk-Weights and Loan to Value (LTV) Ratios

Please refer to the Second Bi-monthly Monetary Policy Statement for 2017-18, announced today.

2. As a countercyclical measure, the LTV ratios, risk weights and standard asset provisioning rate for individual housing loans sanctioned on or after the date of this circular shall be as under:

Outstanding loan	LTV ratio (%)	Risk Weight (%)	Standard Asset Provision (%)
Up to Rs.30 lakh	≤ 80	35	0.25
	> 80 and ≤ 90	50	
Above Rs.30 lakh and up to Rs.75 lakh	≤ 80	35	
Above Rs.75 lakh	≤ 75	50	

3. The LTV ratios, Risk Weights and Standard Asset Provision set out in the circular DBR.BP.BC.No.44/08.12.015/2015-16 dated October 8, 2015, on the captioned subject, shall continue to apply to loans sanctioned up to June 6, 2017.

4. All other instructions referred to in the above mentioned circular remain unchanged.

Yours faithfully,
(S.S. Barik)
Chief General Manager in-Charge

Section 24 and Section 56 of the Banking Regulation Act, 1949 - Maintenance of Statutory Liquidity Ratio (SLR)

RBI/2016-17/318

DBR.No.Ret.BC.71/12.02.001/2016-17

June 7, 2017

All Commercial Banks, Primary (Urban) Co-operative Banks (UCBs),
State and Central Co-operative Banks (StCBs/CCBs)

Madam/Dear Sir,

Section 24 and Section 56 of the Banking Regulation Act, 1949 - Maintenance of Statutory Liquidity Ratio (SLR)

Please refer to our circular DBR.No.Ret.BC.64/12.01.001/2015-16 dated December 10, 2015, on maintenance of Statutory Liquidity Ratio under Section 24 and Section 56 of the Banking Regulation Act, 1949.

2. As announced in the Second Bi-Monthly Monetary Policy Statement 2017-18 of the Reserve Bank of India today, it has been decided to reduce the Statutory Liquidity Ratio (SLR) of commercial banks, primary (urban) co-operative banks (UCBs), state co-operative banks and central co-operative banks from 20.5 per cent of their Net Demand and Time Liabilities (NDTL) to 20.00 per cent from the fortnight commencing June 24, 2017. A copy of the relative notification DBR.No.Ret.BC.73/12.02.001/2016-17 dated June 7, 2017, applicable to the banks is enclosed

3. It is clarified that notwithstanding the reduction in the SLR, the ceiling on amount of SLR securities that can be held under 'Held to Maturity' category remains unchanged.

Yours faithfully,
(S.S. Barik)

Chief General Manager in-Charge

DBR.No.Ret.BC.73/12.02.001/2016-17

June 7, 2017

NOTIFICATION

In exercise of the powers conferred by sub-section (2A) of Section 24 read with Section 51 and Section 56 of the Banking Regulation Act, 1949 (10 of 1949) and in partial modification of the Notification Ref.DBR.No.Ret.BC.63/12.02.001/2015-16 dated December 10, 2015, the Reserve Bank hereby specifies that:

With effect from June 24, 2017, every commercial bank, primary (urban) co-operative bank, state co-operative bank and central co-operative bank shall maintain in India assets (referred to as 'SLR assets' in the above Notification) the value of which shall not, at the close of business on any day, be less than 20.00 per cent of their total net demand and time liabilities in India as on the last Friday of the second preceding fortnight, valued in accordance with the method of valuation specified by the Reserve Bank from time to time; and

All other instructions contained in the Notification dated December 10, 2015, referred to above, shall continue to apply.

(Sudarshan Sen)
Executive Director

Recording of PPO Number in the passbook of Pensioners / Family Pensioners

RBI/2016-17/319
DGBA.GBD.No.3235/45.01.001/2016-17

June 8, 2017

All Agency Banks
Dear Sir / Madam

Recording of PPO Number in the passbook of Pensioners / Family Pensioners

As you are aware, it has been decided to record the PPO number in all the pension passbooks of the pensioners/family pensioners issued to them. This is to alleviate the difficulties reported by pensioners/family pensioners to get duplicate Pension Payment Orders (PPO) in case of missing of original PPO, transfer of pension account from one bank/branch to another bank/branch, commencement of family pension to spouse or dependent children after the death of pensioner, etc. in the absence of ready availability of PPO numbers.

2. Necessary instructions in this regard have already been issued to all authorised banks by the Central Pension Accounting Office vide their Office Memorandum CPAO/Tech/Clarifications/P&PW/2014-15/426-497 dated September 17, 2014 and Office of Principal Controller of Defence Accounts (Pension) vide their Circular No.185 dated November 28, 2016 (copies enclosed).

3. However, it has been noticed that a few agency banks have not yet implemented the instructions in all their branches. Accordingly all agency banks are advised to record the PPO numbers on the passbook of pensioners/family pensioners.

Yours faithfully
(Partha Choudhuri)
General Manager

Aligning roadmap for unbanked villages having population more than 5000 with revised guidelines on Branch Authorisation Policy

RBI/2016-17/320

FIDD.CO.LBS.BC.No 31/02.01.001/2016-17

June 8, 2017

The Chairman and Managing Director/ Chief Executive Officer

SLBC Convenor Banks

Dear Sir,

Aligning roadmap for unbanked villages having population more than 5000 with revised guidelines on Branch Authorisation Policy

Please refer to the circular FIDD.CO.LBS.BC.No.82/02.01.001/2015-16 dated December 31, 2015 wherein SLBCs were advised to identify villages with population above 5000 without a bank branch of a scheduled commercial bank in their State and allot these villages among scheduled commercial banks (including Regional Rural Banks) for opening brick and mortar branches.

2. In this connection, we draw your attention to the circular DBR.No.BAPD.BC.69/22.01.001/2016-17 dated May 18, 2017 on 'Rationalisation of Branch Authorisation Policy - Revision of Guidelines' wherein final guidelines on 'Banking Outlets' have been issued with a view to facilitate financial inclusion as also to provide flexibility to banks on the choice of delivery channel.

3. In the circumstances, SLBC Convenor banks are advised to review and identify the unbanked rural centres (URCs) in villages with population above 5000, in light of the revised guidelines on rationalisation of branch authorisation policy and ensure that such unbanked rural centres in villages with population above 5000, if any, are banked forthwith by opening of CBS enabled banking outlet. A confirmation stating that all unbanked rural centres in villages with population above 5000 have been banked, may be furnished to the respective Regional Office of Financial Inclusion and Development Department of Reserve Bank of India latest by December 31, 2017.

Yours faithfully,
(Ajay Kumar Misra)
Chief General Manager

Master Direction - Information Technology Framework for the NBFC Sector

RBI/DNBS/2016-17/53

Master Direction DNBS.PPD.No.04/66.15.001/2016-17

June 08, 2017

Master Direction - Information Technology Framework for the NBFC Sector

In exercise of the powers conferred in terms of clause (b) of sub-section (1) of 45-L of the Reserve Bank of India Act, 1934 (Act 2 of 1934), the Reserve Bank of India being satisfied for the purpose of enabling it to regulate the credit system of the country to its advantage it is necessary so to do, hereby issues Master Directions - Information Technology Framework for the NBFC Sector, 2017 hereinafter specified.

(Dr. Sathyan David)
Chief General Manager

For annexure: please find below link

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10999&Mode=0>

INCOME TAX UPDATES

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION New Delhi, the 5th June, 2017
INCOME-TAX

S.O. 1789(E).—In exercise of the powers conferred by third proviso to the clause (38) of section 10 of the Income-tax Act, 1961 (43 of 1961) hereinafter referred to as the Income-tax Act, the Central Government hereby notifies all transactions of acquisition of equity share entered into on or after the 1st day of October, 2004 which are not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004), other than the following, namely :—

(a) Where acquisition of existing listed equity share in a company whose equity shares are not frequently traded in a recognised stock exchange of India is made through a preferential issue:

Provided that nothing contained in this clause shall apply to acquisition of listed equity shares in a company:—

(i) Which has been approved by the Supreme Court, High Court, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;

(ii) by any non-resident in accordance with foreign direct investment guidelines issued by the Government of India;

(iii) by an investment fund referred to in clause (a) of Explanation 1 to section 115UB of the Income tax Act or a venture capital fund referred to in clause (23FB) of section 10 of the Income-tax Act or a Qualified Institutional Buyer;

(iv) through preferential issue to which the provisions of chapter VII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply.

(b) Where transaction for acquisition of existing listed equity share in a company is not entered through a recognised stock exchange of India:

Provided that nothing contained in this clause shall apply to the following acquisition of listed equity shares in a company made in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), if applicable,

(i) Acquisition through an issue of share by a company other than the issue referred to in clause (a);

(ii) Acquisition by scheduled banks, reconstruction or securitisation companies or public financial institutions during their ordinary course of business;

(iii) Acquisition which has been approved by the Supreme Court, High Courts, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;

(iv) Acquisition under employee stock option scheme or employee stock purchase scheme framed under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999;

(v) Acquisition by any non-resident in accordance with foreign direct investment guidelines of the Government of India;

(vi) Where acquisition of shares of company is made under Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011;

(vii) Acquisition from the Government;

(viii) acquisition by an investment fund referred to in clause (a) to Explanation 1 to section 115UB of the Income-tax Act or a venture capital fund referred to in clause (23FB) of section 10 of the income-tax Act or a Qualified Institutional Buyer;

(ix) Acquisition by mode of transfer referred to in sections 47 or 50B of the Income-tax Act, if the previous owner of such shares has not acquired them by any mode referred to in clause (a) or clause (b) or clause (c) [other than the transactions referred to in the proviso to clause (a) or clause (b)].

(c) Acquisition of equity share of a company during the period beginning from the date on which the company is delisted from a recognised stock exchange and ending on the date immediately preceding the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules made thereunder;

Explanation, – for the purposes of this notification, –

(a) “Frequently traded shares” means shares of a company, in which the traded turnover on a recognised stock exchange during the twelve calendar months preceding the calendar month in which the acquisition and transfer is made, is at least ten per cent. of the total number of shares of such class of the company:

Provided that where the share capital of a particular class of shares of the company is not identical throughout such period, the weighted average number of total shares of such class of the company shall represent the total number of shares.

(b) „Listed“ means listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.

(c) “Preferential issue” and “Qualified Institutional Buyer” shall have the meanings respectively assigned to them in sub-regulation (1) of regulation (2) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

(d) "Public financial institution" and "scheduled bank" shall have the meanings respectively assigned to them in Explanation to clause (viia) of sub-section (1) of section 36 of Income-tax Act.

(e) “Recognised stock exchange” shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956.

(f) “Reconstruction company” and “securitisation company” shall have the meanings respectively assigned to them in sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).

2. This notification shall come into force with effect from the 1st day of April, 2018 and shall accordingly apply to assessment year 2018-19 and subsequent assessment years.

[F. No. 43/2017/F. No. 370142/09/2017-TPL]
ABHISHEK GAUTAM, Under Secy. (Tax Policy and Legislation)

**MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION
New Delhi, the 5th June, 2017
INCOME-TAX**

S.O. 1790(E).—In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the Cost Inflation Index as mentioned in column (3) of the Table for the Financial Years mentioned in the corresponding entry in column (2) of the said Table, namely:—

TABLE		
Sl. No.	Financial Year	Cost Inflation Index
(1)	(2)	(3)
1	2001-02	100
2	2002-03	105
3	2003-04	109
4	2004-05	113
5	2005-06	117
6	2006-07	122
7	2007-08	129
8	2008-09	137
9	2009-10	148
10	2010-11	167
11	2011-12	184
12	2012-13	200
13	2013-14	220
14	2014-15	240
15	2015-16	254
16	2016-17	264
17	2017-18	272

2. This notification shall come into force with effect from 1st day of April, 2018 and shall accordingly apply to the assessment year 2018-19 and subsequent years.

[Notification No. 44/2017/F.No.370142/11/2017-TPL]
ABHISHEK GAUTAM, Under Secy. (Tax Policy & Legislation)

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION
New Delhi, the 5th June, 2017

G.S.R. 554(E).—In exercise of powers conferred by section 295 of the Income Tax Act, 1961 (43 of 1961) (hereinafter referred to as the 'Act'), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely: —

1. (1) These rules may be called the Income-tax (11th Amendment) Rules, 2017.
(2) They shall come into force on the date of their publication in the official Gazette.
2. In the Income Tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 31A, in sub-rule (3A), after the words "under digital signature", the words "or verified through an electronic process" shall be inserted.
3. In the principal rules, in Form No. 26B, at the end of the form, the following shall be inserted, namely:- "Notes: In case of refund related to tax deducted under section 194-IA of the Act for which Form No. 26QB has been filed by the deductor,-
 - (a) Permanent Account Number may be furnished in place of Tax Deduction and Collection Account Number;
 - (b) In column II, in sub-column (5) relating to the 'period', may be left blank;
 - (c) In column II, in sub-column (7) relating to the 'Receipt number of relevant statement', furnish acknowledgement number of Form No. 26QB."

[Notification No. 45/2017/F. No. 370142/39/2016-TPL]
PITAMBAR DAS, Director TPL

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

NOTIFICATION

New Delhi, the 7th June, 2017

INCOME-TAX

G.S.R. 557(E).— In exercise of the powers conferred by section 295 read with sub-section (2) of section 92CB of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (12th Amendment) Rules, 2017.
(2) They shall come into force and shall be deemed to have come into force from the 1st day of April, 2017.
2. In the Income-tax Rules, 1962, —
 - (I) in rule 10TA, —
 - (i) for clause (a), following clause shall be substituted, namely:—

“(a) “accountant” means an accountant referred to in the *Explanation* below sub-section (2) of section 288 of the Act and includes any person recognised for undertaking cost certification by the Government of the country where the associated enterprise is registered or incorporated or any of its agencies, who fulfills the following conditions, namely:—

 - (I) if he is a member or partner in any entity engaged in rendering accountancy or valuation services then,—
 - (i) the entity or its affiliates have presence in more than two countries; and
 - (ii) the annual receipt of the entity in the year preceding the year in which cost certification is undertaken exceeds ten crore rupees;
 - (II) if he is pursuing the profession of accountancy individually or is a valuer then,—
 - (i) his annual receipt in the year preceding the year in which cost certification is undertaken, from the exercise of profession, exceeds one crore rupees; and
 - (ii) he has professional experience of not less than ten years.”
 - (ii) the existing clause (a) shall be read as clause (aa);
 - (iii) in clause (aa) so amended, in sub-clause (viii), after the word “principal” the words “, except where the source code has been made available to carry out routine functions like debugging of the software” shall be inserted;
 - (iv) after clause (c), the following clause shall be inserted, namely:—

“(ca) “employee cost” includes,—

 - (i) salaries and wages;
 - (ii) gratuities;
 - (iii) contribution to Provident Fund and other funds;
 - (iv) the value of perquisites as specified in clause (2) of section 17 of the Act;
 - (v) employment related allowances, like medical allowance, dearness allowance, travel allowance and any other allowance;
 - (vi) bonus or commission by whatever name called;
 - (vii) lumpsum payments received at the time of termination of service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments;
 - (viii) expenses incurred on contractual employment of persons performing tasks similar to those performed by the regular employees;

(ix) outsourcing expenses, to the extent of employee cost, wherever ascertainable, embedded in the total outsourcing expenses;

Provided that where the extent of employee cost embedded in the total outsourcing expenses is not ascertainable, eighty per cent. of the total outsourcing expenses shall be deemed to be the employee cost embedded in the total outsourcing expenses;

(x) recruitment expenses;

(xi) relocation expenses;

(xii) training expenses;

(xiii) staff welfare expenses; and

(xiv) any other expenses related to employees or the employment;'

(v) after clause (g), the following clause shall be inserted, namely:—

“(ga) “low value-adding intra-group services” means services that are performed by one or more members of a multinational enterprise group on behalf of one or more other members of the same multinational enterprise group and which,—

(i) are in the nature of support services;

(ii) are not part of the core business of the multinational enterprise group, i.e., such services neither constitute the profit-earning activities nor contribute to the economically significant activities of the multinational enterprise group;

(iii) are not in the nature of shareholder services or duplicate services;

(iv) neither require the use of unique and valuable intangibles nor lead to the creation of unique and valuable intangibles;

(v) neither involve the assumption or control of significant risk by the service provider nor give rise to the creation of significant risk for the service provider; and

(vi) do not have reliable external comparable services that can be used for determining their arm's length price, but does not include the following services, namely:—

(i) research and development services;

(ii) manufacturing and production services;

(iii) information technology (software development) services;

(iv) knowledge process outsourcing services;

(v) business process outsourcing services;

(vi) purchasing activities of raw materials or other materials that are used in the manufacturing or production process;

(vii) sales, marketing and distribution activities;

(viii) financial transactions;

(ix) extraction, exploration, or processing of natural resources; and

(x) insurance and reinsurance;”

(vi) in clause (j),—

(A) in the long line, after the words “operations including” the words “costs relating to Employee Stock Option Plan or similar stock-based compensation provided for by the associated enterprises of the assessee to the employees of the assessee, reimbursement to associated enterprises of expenses incurred by the associated enterprises on behalf of the assessee, amounts recovered from associated enterprises on account of expenses

incurred by the assessee on behalf of those associated enterprises and which relate to normal operations of the assessee and" shall be inserted;

(B) after item (viii), the following provisos shall be inserted, namely:—

"Provided that reimbursement to associated enterprises of expenses incurred by the associated enterprises on behalf of the assessee shall be at cost:"

"Provided further that amounts recovered from associated enterprises on account of expenses incurred by the assessee on behalf of the associated enterprises and which relate to normal operations of the assessee shall be at cost;"

(vii) in clause (k), in the long line, after the words "normal operation" the words "including costs relating to Employee Stock Option Plan or similar stock-based compensation provided for by the associated enterprises of the assessee to the employees of the assessee" shall be inserted;

(viii) after clause (l), the following clause shall be inserted, namely:—

"(la) "relevant previous year" means the previous year relevant to the assessment year in which the option for safe harbour is validly exercised;"

(II) in rule 10TB, in sub-rule (1), —

(i) in clause (v), the word "or" shall be omitted;

(ii) in clause (vi), after the word "sales" the word "; or" shall be inserted;

(iii) after clause (vi), the following clause shall be inserted, namely:—

"(vii) is in receipt of low value-adding intra-group services from one or more members of its group."

(III) in rule 10TC, —

(i) in clause (viii), the word "or" shall be omitted;

(ii) in clause (ix), after the word "components" the word "; or" shall be inserted;

(iii) after clause (ix), the following clause shall be inserted, namely:—

"(x) receipt of low value-adding intra-group services from one or more members of its group."

(IV) in rule 10TD, —

(i) in sub-rule (1), after the words, brackets and number "sub-rule (2)" the words, brackets, numbers and letter "or, as the case may be, sub-rule (2A)" shall be inserted;

(ii) after sub-rule (2), the following sub-rule shall be inserted, namely:—

"(2A) The circumstances referred to in sub-rule (1) in respect of the eligible international transaction specified in column (2) of the Table below shall be as specified in the corresponding entry in column (3) of the said Table:—

Sl. No.	Eligible International Transaction	Circumstances
(1)	(2)	(3)
1.	Provision of software development services referred to in item (i) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is –

		<p>(i) not less than 17 per cent., where the value of international transaction does not exceed a sum of one hundred crore rupees; or</p> <p>(ii) not less than 18 per cent., where the value of international transaction exceeds a sum of one hundred crore rupees but does not exceed a sum of two hundred crore rupees.</p>
2.	Provision of information technology enabled services referred to in item (ii) of rule 10TC.	<p>The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is –</p> <p>(i) not less than 17 per cent., where the aggregate value of such transactions entered into during the previous year does not exceed a sum of one hundred crore rupees; or</p> <p>(ii) not less than 18 per cent., where the aggregate value of such transactions entered into during the previous year exceeds a sum of one hundred crore rupees but does not exceed a sum of two hundred crore rupees.</p>
3.	Provision of knowledge process outsourcing services referred to in item (iii) of rule 10TC.	<p>The value of international transaction does not exceed a sum of two hundred crore rupees and the operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is –</p> <p>(i) not less than 24 per cent. and the Employee Cost in relation to the Operating Expense is at least sixty per cent.;</p> <p>(ii) not less than 21 per cent. and the Employee Cost in relation to the Operating Expense is forty per cent. or more but less than sixty per cent.; or</p> <p>(iii) not less than 18 per cent. and the Employee Cost in relation to the Operating Expense does not exceed forty per cent.</p>
4.	Advancing of intra-group loans referred to in item (iv) of rule 10TC where the amount of loan is denominated in Indian Rupees (INR).	<p>The interest rate declared in relation to the eligible international transaction is not less than the one-year marginal cost of funds lending rate of State Bank of India as on 1st April of the relevant previous year plus, –</p> <p>(i) 175 basis points, where the associated enterprise has CRISIL credit rating between AAA to A or its equivalent;</p> <p>(ii) 325 basis points, where the associated enterprise has CRISIL credit rating of BBB-, BBB or BBB+ or its equivalent;</p> <p>(iii) 475 basis points, where the associated enterprise has CRISIL credit rating between BB to B or its equivalent;</p> <p>(iv) 625 basis points, where the associated enterprise has CRISIL credit rating between C to D or its equivalent; or</p> <p>(v) 425 basis points, where credit rating of the associated</p>

		enterprise is not available and the amount of loan advanced to the associated enterprise including loans to all associated enterprises in Indian Rupees does not exceed a sum of one hundred crore rupees in the aggregate as on 31st March of the relevant previous year.
5.	Advancing of intra-group loans referred to in item (iv) of rule 10TC where the amount of loan is denominated in foreign currency.	The interest rate declared in relation to the eligible international transaction is not less than the six-month London Inter-Bank Offer Rate of the relevant foreign currency as on 30th September of the relevant previous year plus, – (i) 150 basis points, where the associated enterprise has CRISIL credit rating between AAA to A or its equivalent; (ii) 300 basis points, where the associated enterprise has CRISIL credit rating of BBB-, BBB or BBB+ or its equivalent; (iii) 450 basis points, where the associated enterprise has CRISIL credit rating between BB to B or its equivalent; (iv) 600 basis points, where the associated enterprise has CRISIL credit rating between C to D or its equivalent; or (v) 400 basis points, where credit rating of the associated enterprise is not available and the amount of loan advanced to the associated enterprise including loans to all associated enterprises does not exceed a sum equivalent to one hundred crore Indian rupees in the aggregate as on 31st March of the relevant previous year.
6.	Providing corporate guarantee referred to in sub-item (a) or sub-item (b) of item (v) of rule 10TC.	The commission or fee declared in relation to the eligible international transaction is at the rate not less than one per cent. per annum on the amount guaranteed.
7.	Provision of contract research and development services wholly or partly relating to software development referred to in item (vi) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 24 per cent., where the value of the international transaction does not exceed a sum of two hundred crore rupees.
8.	Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs referred to in item (vii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 24 per cent., where the value of the international transaction does not exceed a sum of two hundred crore rupees.
9.	Manufacture and export of core auto components referred to in item (viii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 12 per cent.

10.	Manufacture and export of non-core auto components referred to in item (ix) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 8.5 per cent.
11.	Receipt of low value-adding intra-group services in item (x) of rule 10TC.	The entire value of the international transaction, including a mark-up not exceeding 5 per cent., does not exceed a sum of ten crore rupees; Provided that the method of cost pooling, the exclusion of shareholder costs and duplicate costs from the cost pool and the reasonableness of the allocation keys used for allocation of costs to the assessee by the overseas associated enterprise, is certified by an accountant.”;

(iii) after sub-rule (3), the following sub-rule shall be inserted, namely:—

“(3A) The provisions of sub-rules (1) and (2A) shall apply for the assessment year 2017-18 and two assessment years immediately following that assessment year:

Provided that where an eligible assessee is eligible to exercise option under sub-rule (2) or, as the case may be, sub-rule (2A) above, the assessee shall have the right to choose the option which is most beneficial to him.”

(iv) in sub-rule (4), after the words, brackets and number “and (2)” the words, brackets, numbers and letter “or, as the case may be, (2A)” shall be inserted.

(v) in rule 10TE, —

(i) in sub-rule (2), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in case of the option for safe harbour validly exercised under sub-rule (2A) of rule 10TD, the word “three” shall be substituted for “five”.”;

(ii) in sub-rule (9), after the words, brackets and number “sub-rule (2)”, wherever they may occur, the words, brackets, number and letter “or, as the case may be, sub-rule (2A)” shall be inserted;

(iii) in sub-rule (13), after the words, brackets and number “sub-rule (2)” the words, brackets, number and letter “or, as the case may be, sub-rule (2A)” shall be inserted.

[Notification No. 46/2017/ F. No. 370142/6/2017-TPL]

RAJESH KUMAR KEDIA, Director (Tax Policy and Legislation)

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) *vide* number S.O. 969 (E) dated the 26th March, 1962 and were last amended *vide* notification number G.S.R.554(E), dated the 5th June, 2017.

IPR UPDATE

PUBLIC NOTICE

As you are aware that the office of Controller General of Patents, Designs and Trademarks has taken several initiatives recently to promote filing of International Patent applications under Patent Cooperation Treaty (PCT) which inter-alia includes encouraging online filing of International applications through ePCT so that the benefit of such system can be availed by the applicant, payment of international filing and search fee in Indian currency, etc., payment of all the fees mentioned in the Fifth Schedule of the Patents Rules 2003 as amended from time to time, through the online payment portal as well as the BHIM App(for individual applicants).You are also aware that the Indian Patent Office has been successfully functioning as International Searching and Preliminary Examining Authority from 15th October, 2013.

In order to further streamline and promote the filing of International applications through Receiving office especially RO/IN & ePCT and also to further improve the functioning of Indian Patent Office as ISA/IN and IPEA/IN, a meeting of stakeholders will be held at Patent Office Delhi, on 19th June, 2017 at 3.00 P.M.

Accordingly all stakeholders as well as the applicants who are filing International applications under PCT and utilizing the services of Indian Patent Office as ISA/IPEA are cordially invited to attend the same. Your suggestions will be highly appreciable and very useful to further improve the functioning of the RO/IN & ISA/IN and also for better facilitation to the inventor and Indian applicants. The stakeholders are also requested to send their confirmation by mail at dixit.rajesh@nic.in or delhi-patent@nic.in by 16th June 2017



(Dr. K.S.Kardam) 9/6/17

Sr. Joint Controller of Patents & Designs

Copy for Information

Head of Offices, Patent Office, Kolkata, Chennai and Mumbai for public display at NOTICE BOARD

NOTICE BOARD PATENT OFFICE DELHI

DGFT UPDATES

To be published in the Gazette of India Extraordinary Part-11, Section - 3, Sub-Section (ii)

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

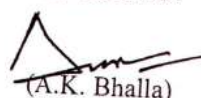
Notification No. 9 /2015-2020
New Delhi, Dated: 8 June, 2017

Subject: Amendment in Para 9 (B) of General Notes Regarding Import Policy of ITC (HS), 2017, Schedule- I (Import Policy).

S.O. (E): In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends Para 9 (B) of General Notes Regarding Import Policy of ITC (HS), 2017, Schedule – I (Import Policy), as under:-

Existing Para 9 (B) of General Notes Regarding Import Policy of ITC (HS), 2017, Schedule – I (Import Policy)	Revised Para 9 (B) of General Notes Regarding Import Policy of ITC (HS), 2017, Schedule – I (Import Policy)
<p><u>(B) Prohibition on Imports due to Avian Influenza:</u> Import into India of the following live-stock and live-stock products shall be prohibited from all countries, in view of notifiable Avian Influenza (both Highly Pathogenic notifiable Avian Influenza and Low Pathogenic notifiable Avian Influenza): (i) domestic and wild birds (excluding poultry and captive birds); (ii) unprocessed meat and meat products from Avian species including wild birds (except poultry); (iii) semen of domestic and wild birds (except semen of poultry). Further, the Central Government also prohibits the import into India from the countries reporting notifiable Avian Influenza (both Highly Pathogenic notifiable Avian Influenza and Low Pathogenic notifiable Avian Influenza), the following live-stock and live-stock products, namely: (a) Live poultry and captive birds; (b) day old chicks, ducks, turkey and other newly hatched Avian species; (c) unprocessed meat and meat products from Avian species including wild birds; (d) hatching eggs; (e) egg and egg products (except Specific Pathogen Free eggs); (f) unprocessed feathers; (g) live pig; (h) pathological material and biological products from birds; (i) product of animal origin (from birds) intended for use in animal feeding or for agricultural or industrial use; (j) Semen of poultry.</p>	<p><u>(B) Import of Poultry and Poultry Products:</u> The import of poultry and poultry products into India shall be regulated as per S.O. 2337(E) dated 8th July, 2016, as amended from time to time, issued by the Department of Animal Husbandry, Dairying and Fisheries under Section 3 and 3A of the Livestock Importation Act, 1898.</p>

2. **Effect of this Notification: Import policy of Poultry and Poultry Products is revised and will be regulated as per S.O. 2337(E) dated 8th July, 2016, as amended from time to time, issued under the Livestock Importation Act, 1898.**


 (A.K. Bhalla)
 Director General of Foreign Trade
 E- mail: dgft@nic.in

[Issued from F.No. 01/89/180/Misc-77/AM-04/PC-2 (A)]

EXCISE 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)

New Delhi, the 9th June, 2017
19 Jyaistha, 1939 Saka

Notification No. 12 /2017-Central Excise (N.T)


G.S.R.(E).- In pursuance of clause (b) of section 2 of the Central Excise Act, 1944 (1 of 1944) read with clause (55) of section 65B of the Finance Act, 1994 (32 of 1994) and in exercise of the powers conferred by rule 3 of the Central Excise Rules, 2002 and rule 3 of the Service Tax Rules, 1994 and in supersession of the notifications of the Government of India in the Ministry of Finance, Department of Revenue, Central Board of Excise and Customs *vide* numbers 20/2014-Service Tax, dated the 16th September, 2014, 21/2014-Service Tax, dated the 16th September, 2014, 27/2014-Central Excise (N.T), dated the 16th September, 2014 and 29/2014-Central Excise (N.T), dated the 16th September, 2014 published in the Gazette of India Extraordinary *vide* numbers G.S.R.648(E), dated the 16th September, 2014, G.S.R.649(E), dated the 16th September, 2014, G.S.R.651(E), dated the 16th September, 2014 and G.S.R.653(E), dated the 16th September, 2014 respectively, except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby appoints—

- (i) Principal Chief Commissioners of Central Excise and Service Tax;
- (ii) Chief Commissioners of Central Excise and Service Tax;
- (iii) Principal Commissioners of Central Excise and Service Tax;
- (iv) Commissioners of Central Excise and Service Tax;
- (v) Commissioners of Central Excise and Service Tax (Appeals);
- (vi) Commissioners of Central Excise and Service Tax (Audit); and
- (vii) any other officer of the Central Excise Department,

as Central Excise Officers and vests them with all the powers under the Central Excise Act, 1944 (1 of 1944) and the rules made thereunder and Chapter V of the Finance Act, 1994 (32 of 1994) and the rules made thereunder, with respect to the jurisdiction specified in the notification issued under rule 3 of the Central Excise Rules, 2002.

2. This notification shall come into force on a date to be notified by the Central Government in the Official Gazette.

[F.No. 137/17/2017-Service Tax]


Dr. Sreeparvathy S.L.
Under Secretary to the Government of India

[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)

New Delhi, the 9th June, 2017
19 Jyaistha, 1939 Saka

Notification No. 13/2017-Central Excise (N.T)

G.S.R (E).- In pursuance of clause (b) of section 2 of the Central Excise Act, 1944 (1 of 1944) and in exercise of the powers conferred by rule 3 of the Central Excise Rules, 2002, the Central Board of Excise and Customs hereby vests the jurisdiction specified below upon the following Central Excise Officers, namely:-

- (i) the Principal Chief Commissioners of Central Excise and Service Tax or the Chief Commissioners of Central Excise and Service Tax, as the case may be, specified in column(2) of Table I, with the territorial jurisdiction over the-
 - (a) Principal Commissioners of Central Excise and Service Tax and Commissioners of Central Excise and Service Tax, as the case may be, specified in the corresponding entry in column(3) of the said Table;
 - (b) Commissioners of Central Excise and Service Tax (Appeals) specified in the corresponding entry in column(4) of the said Table; and
 - (c) Commissioners of Central Excise and Service Tax (Audit), specified in the corresponding entry in column (5) of the said Table;
- (ii) (a) the Principal Commissioners of Central Excise and Service Tax or the Commissioners of Central Excise and Service Tax, as the case may be, specified in column(2) of Table II; and
 - (b) the Central Excise Officers sub-ordinate to them,

with respect to the territorial jurisdiction specified in the corresponding entry in column(3) of the said Table ;

- (iii) the Commissioners of Central Excise and Service Tax(Appeals) specified in column(2) of Table III,

with respect to the territorial jurisdiction of the Principal Commissioners of Central Excise and Service Tax or the Commissioners of Central Excise and Service Tax, as the case may be, specified in the corresponding entry in column(3) of the said Table ;

- (iv) (a) the Commissioners of Central Excise and Service Tax(Audit) specified in column(2) of Table IV; and
 - (b) the Central Excise Officers subordinate to them,

with respect to the territorial jurisdiction of the Principal Commissioners of Central Excise and Service Tax or the Commissioners of Central Excise and Service Tax, as the case may be, specified in the corresponding entry in column(3) of the said Table.

For Table: Please find below link

<http://www.cbec.gov.in/resources/htdocs-cbec/excise/cx-act/notifications/notfns-2017/cx-nt2017/cent13-2017.pdf>

[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)

New Delhi, the 9th June, 2017
19 Jyaishtha, 1939 Saka

Notification No. 14 /2017-Central Excise (N.T)


G.S.R (E).-In exercise of the powers conferred by section 37A of the Central Excise Act, 1944 (1 of 1944) read with section 83 of the Finance Act, 1994 (32 of 1994) and in supercession of the notifications of the Government of India in the Ministry of Finance, Department of Revenue, Central Board of Excise and Customs *vide* numbers 11/2007-Central Excise (N.T), dated the 1st March, 2007, 16/2007-Service Tax, dated the 19th April, 2007 and 6/2009-Service Tax, dated the 30th January, 2009, published in the Gazette of India Extraordinary *vide* numbers G.S.R 151 (E) dated the 1st March, 2007, G.S.R 303 (E) dated the 19th April, 2007 and G.S.R 60 (E) dated the 30th January, 2009, respectively, except as respects things done or omitted to be done before such supercession, the Central Government hereby directs that the powers exercisable by the Central Board of Excise and Customs under rule 3 of the Central Excise Rules, 2002 and rule 3 of the Service Tax Rules, 1994, may be exercised by-

- (a) the Principal Chief Commissioner of Central Excise and Service Tax; or
- (b) the Chief Commissioner of Central Excise and Service Tax,

for the purpose of assignment of adjudication of notices to show cause issued under the provisions of the Central Excise Act, 1944 (1 of 1944) or the Finance Act 1994 (32 of 1994), to the Central Excise Officers subordinate to them.

2. This notification shall come into force on a date to be notified by the Central Government in the Official Gazette.

[F.No. 137/17/2017-Service Tax]


Dr. Sreeparvathy S.L.
Under Secretary to the Government of India

CUSTOM UPDATES

Instruction No. 07/2017-Customs

F. No. 528/07/2017-STO (TU)
Government of India
Ministry of finance
Department of Revenue
Central Board of Excise & Customs
(Tariff Unit)

Room No. 229-A, North Block
New Delhi, 6th June, 2017

To

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

Madam/Sir,

Subject: Classification of Dioctyl Orthophthalate (DEPH) – Reg.

References have been received in the Board from field and Trade regarding the correct classification of Dioctyl orthophthalate (DEPH). A doubt has been expressed whether the said goods are classifiable under tariff item '2917 32 00 - - Dioctyl orthophthalate' or under tariff item '2917 39 20 - - Dioctyl phthalate'.

2. Trade is of the view that Dioctyl Orthophthalate (DEPH) is also known as Dioctyl Phthalate (DOP). Although both terms refer to single product but in the Customs Tariff, there are two classifications for the same product i.e. 2917 32 00 & 2917 39 20. Therefore, in terms of chapter Note 3 to the chapter 29, goods which could be included in two or more of the headings of this Chapter are to be classified in that one of those headings which occurs last in numerical order. According to this view the product merits classification under CTH 2917 39 20. This view is controverted by field formations who are of the opinion that DEPH is classifiable under tariff item - - 2917 32 00.

3. Board examined the issue and in this regard it is clarified that:

- a. The product under examination is Dioctyl orthophthalate (DEPH) which may be referred by a common name [i.e. Dioctyl phthalate (DOP)] or by IUPAC name [bis(2-ethylhexyl) benzene-1,2-dicarboxylate] or by any other name in chemistry or in trade parlance.
- b. Chapter Note 3 of Chapter 29 provided that goods which could be included in two or more of the headings of chapter 29, are to be classified in one of those headings which occurs last in numerical order. The said chapter note 3 reads as:

"Goods which could be included in two or more of the headings of this Chapter are to be classified in that one of those headings which occurs last in numerical order."


However, sub-heading note 2 of the chapter 29 further states that "Note 3 to this chapter shall not be applicable to the sub-headings of this Chapter."

Therefore, by virtue of sub-heading Note 2, the classification principle in Note 3 is not applicable to the item under consideration because the competing sub-headings are "2917 32" [converted into tariff Line - - 2917 32 00] and "2917 39" [one of the tariff line of the sub-heading is - - - 2917 39 20]. Further, the dispute in this case is not between two headings (the competing tariff items are both within CTH 2917), therefore, chapter Note 3 would not be available in deciding the classification.

- c. HSN provides a specific entry for the ortho variety of dioctyl-phthalate in 2917.32 which upon conversion to 8-digit entry (Indian Tariff) finds mention as '2917 32 00 - - Dioctyl orthophthalate'. The other competing sub-heading is 2917 39 mentioned as - - Other. This sub-heading has been further sub-divided at the 8-digit level from 2917 39 10 to 2917 39 90. Since for Dioctyl orthophthalate there is a specific sub-heading i.e. 2917 32 - - Dioctyl orthophthalate, it shall therefore take precedence over the residual sub-heading i.e. 2917 39 - - Other. This further clearly implies that the other varieties i.e. meta (also known as iso) and para (also known as tere) would be covered under the residuary entry 2917.39 (2917 39 20) and not under 2917 32 00.
- d. Seemingly, it appears that an entry in the tariff [- - - 2917 39 20, dioctyl-phthalate] would appear to cover all three isomers of dioctyl-phthalate as contended by the trade. However, such an interpretation would be erroneous as DEPH (ortho isomer) is already figuring at [- - 2917 32 00] and it is inconceivable that DEPH would also be classifiable under [- - - 2917 39 20] in the same heading under residuary entry 'other'.
- e. Lastly, in the EN to HSN, there is a mention that phthalic acid is also known as orthophthalic acid, therefore, by this analogy Dioctyl orthophthalate would be same as Dioctyl phthalate and thus tariff item - - - 2917 39 20 should prevail as far as classification of DEPH is concerned.
- It is clarified that the HSN does not contain the entry - - - 2917 39 20 Dioctyl phthalate. Therefore, this definition shall not be applicable to tariff item 2917 39 20. Classification of DEPH shall remain under tariff item - - 2917 32 00.
- f. Board is therefore, of the view that meta and para variety alone of dioctyl-phthalate shall be classified under tariff item - - - 2917 39 20. Dioctyl orthophthalate (DEPH) shall continue to be classified under tariff item - - 2917 32 00.

All pending assessments, if any, may be finalized accordingly.

Yours faithfully,



(Piyush Bhardwaj)
STO (TU)



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