

# Technical Update

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The key amendments introduced in statutes, policies and procedures in respect of Direct Tax, Indirect Tax, Corporate Laws & Accounting Standards, Foreign Exchange Management Act / Export Import Policy & Securities and Exchange Board of India related matters are summarized hereunder.

## CONTENTS AT A GLANCE

### DIRECT TAX

#### Amendments, Notifications & Court Rulings

- » PAN and TAN to be issued within a day to improve Ease of Doing Business
- » Mandatory Quoting of Aadhaar Number for PAN application & filing Return of Income
- » CBDT issues press release and draft notification for exemption of acquisition of equity shares from long term capital gain tax
- » CBDT notifies revised Form No. 10DA for tax deduction of wages of new workmen (Section 80JJAA)
- » Clarifications on ICDS notified u/s 145(2)

### INDIRECT TAX

#### Amendments, Notifications & Court Rulings

- » GST - GST Council's rate fitment committee to begin discussion on GST rates of goods and services, starting May 4, 2017
- » GST - CBEC releases draft GST Rules on Accounts and Records, Advance Rulings and Appeals and Revision
- » GST - CBEC issues draft rules on Electronic Way (e-way) Bill for goods worth Rs. 50,000 and above in transit
- » GST - GST Rates for major commodities and services to be decided in the next meeting in Srinagar on - May 18-19
- » Service Tax - Rules introduced to amend the Service Tax (Settlement of Cases) Rules, 2012 – Termed as “Service Tax (Settlement of Cases) Amendment Rules, 2017”
- » Service Tax - Amendment in Point of Taxation Rules, 2011
- » Service Tax - Amendment in notification No. 30/2012-ST dated 20.06.2012, Service Tax Rules, 1994 & Amendment in notification No. 14/2017-ST, 15/2017-ST, 16/2017-ST and 10/2017-CE (N.T.) all dated 13th April, 2017 – Vide Circular No.206/4/2017-Service Tax dated April 13, 2017
- » Service Tax - Extension of the date of submission of the Form ST-3 & ST-3A
- » Excise - Rules introduced to amend the Central Excise (Settlement of Cases) Rules, 2007 – Termed as “Central Excise (Advance Rulings) Amendment, Rules 2017” – Vide Notification No.9/2017-CENTRAL EXCISE (N.T.) - dated April 12, 2017
- » Excise - Amendment in CENVAT credit Rules, 2004 – Vide Notification No.10/2017-CENTRAL EXCISE (N.T.) - dated April 13, 2017

- » Customs - Amendment in Notification No. 8/2011 dated February 14, 2011
- » Customs - Exemption for Certain Goods
- » Customs - Exemption for Imported Goods
- » Customs - Amendment in the Levy of Fees (Customs Documents) Regulations, 1970 – Now termed as “Levy of Fees (Customs Documents) Amendment Regulations, 2017
- » Customs - Amendment in Customs (Settlement of Cases) Rules, 2007 – Termed as “Customs (Settlement of Cases) Amendment Rules, 2017
- » Customs - DTA clearance of goods procured by EOUs/EHTP/STP units from indigenous sources - charging of Duty
- » Customs - Delayed, incomplete or incorrect filing of Import manifest

## COMPANY LAW

### Amendments, Notifications & Court Rulings

- » Notification of Companies (Removal of names of Companies from the Register of Companies) Amendment Rules, 2017
- » Notification of Companies (Compromise, Arrangements and Amalgamations) Amendment Rules, 2017
- » Commencement Notification of provisions of Section 234 of the Companies Act, 2013

## DIRECT TAX

### 1. PAN and TAN to be issued within a day to improve Ease of Doing Business

In order to improve the Ease of Doing Business for newly incorporated corporates, CBDT has tied up with Ministry of Corporate Affairs (MCA) to issue Permanent Account Number (PAN) and Tax Deduction Account Number (TAN) in one day.

CBDT has also introduced the Electronic PAN Card (E-PAN) which will be sent by email, in addition to issue of the physical PAN Card, to all applicants including individuals where PAN is allotted. Applicant would be benefited by having a digitally signed E-PAN card which they can submit as proof of identity to other agency electronically directly or by storing in the Digital Locker (<https://digilocker.gov.in>).

*Source: CBDT Press Release dated April 11, 2017*

### 2. Mandatory Quoting of Aadhaar Number for PAN application & filing Return of Income

Section 139AA of the Income-tax Act, 1961 as introduced by the Finance Act, 2017 provides for mandatory quoting of Aadhaar Number (and if applied for the Enrolment ID of Aadhaar application form) for filing of return of income and for making an application for allotment of Permanent Account Number with effect from July 1, 2017.

*Source: CBDT Press Release dated April 5, 2017.*

### 3. CBDT issues press release and draft notification for exemption of acquisition of equity shares from long term capital gain tax

The Finance Act, 2017 amended the provisions of section 10 (38) of the Act to provide that exemption under this section for income arising on transfer of equity share acquired on or after 1st October, 2004 shall be available only if the acquisition of share is chargeable to securities transaction tax (STT). Accordingly, the Central Government hereby, notifies all transactions of acquisition of equity shares, which shall be eligible for exemption under section 10(38), entered into on or after the 1st day of October, 2004 which are not chargeable to securities transaction tax, other than the following:-

- (a) where acquisition of 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 other than those preferential issues 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 purchase of listed equity share in a company is not entered through a recognized stock exchange; and
- (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 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 and any rules made there under.

*Source: CBDT Press release dated April 3, 2017*

### 4. CBDT notifies revised Form No. 10DA for tax deduction of wages of new workmen (Section 80JJAA)

In view of the amendment in Finance Act 2016 with respect to Section 80JJAA of the Income-tax Act, CBDT has notified the Income-tax (6th Amendment), Rules, 2017 to amend Rule 19AB and amend the Format of Report of an Chartered Accountant in Form No. 10DA for claiming deduction under section 80JJAA. The amended Forms and Rule are applicable w.e.f. April 1, 2017.

*Source: CBDT Notification No. 26/2017 Income Tax dated April 3, 2017*

### 5. Clarifications on ICDS notified u/s 145(2)

The expert committee for ICDS has on March 23, 2017 issued clarifications on Income Computation and Disclosure Standards (ICDS) u/s. 145(2) of the Income-tax Act, 1961 by way of FAQs vide Circular No. 10/2017.

*Source: CBDT Circular No. 10/2017 dated March 23, 2017*

## INDIRECT TAX

### 1. GST - GST Council's rate fitment committee to begin discussion on GST rates of goods and services, starting May 4, 2017

2. **GST - CBEC releases draft GST Rules on Accounts and Records, Advance Rulings and Appeals and Revision**
3. **GST - CBEC issues draft rules on Electronic Way (e-way) Bill for goods worth Rs. 50,000 and above in transit**
4. **GST - GST Rates for major commodities and services to be decided in the next meeting in Srinagar on - May 18-19**
5. **Service Tax - Rules introduced to amend the Service Tax (Settlement of Cases) Rules, 2012 – Termed as “Service Tax (Settlement of Cases) Amendment Rules, 2017”**

New Format SC (ST) – 2 has been issued regarding disclosure of information in Application for Settlement Cases

*Source: – Vide Notification No. 13/2017-Service Tax dated April 12, 2017*

#### **6. Service Tax - Amendment in Point of Taxation Rules, 2011**

This notification seeks to amend Point of Taxation Rules, 2011 with effect from January 22, 2017 so as to provide the point of taxation of services provided by a foreign shipping line to foreign charterer w.r.t. goods destined for India as the date of bill of lading of goods in the vessel at the port of export.

*Source: – Vide Notification No. 14/2017-Service Tax dated April 13, 2017*

#### **7. Service Tax - Amendment in notification No. 30/2012-ST dated June 20, 2012, Service Tax Rules, 1994 & Amendment in notification No. 14/2017-ST, 15/2017-ST, 16/2017-ST and 10/2017-CE (N.T.) all dated April 13, 2017**

This notification seeks to notification No. 30/2012-ST dated June 20, 2012 so as to caste liability on the importer as the person liable for paying service tax in case of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of such goods by a vessel from a place outside India up to the customs station of clearance in India.

Provide an alternate mechanism for calculating and paying service tax, Swachh Bharat Cess and Krishi Kalyan Cess [like an option to pay an amount calculated at the rate of 1.4% of the sum of cost, insurance and freight (‘CIF’) value of such imported goods.

*Source: – Vide Notification No. 15/2017, Notification No. 16/2017 and Circular No.206/4/2017-Service Tax dated April 13, 2017*

#### **8. Service Tax - Extension of the date of submission of the Form ST-3 & ST-3A**

Service tax dept. has extended the date of submission of the Form ST-3 and ST- 3A from April 25, 2017 to April 30, 2017 -for the period October 1, 2016 to March 31, 2017.

*Source:– Order No. 01/2017-Service Tax dated April 25, 2017*

#### 9. Excise - Rules introduced to amend the Central Excise (Settlement of Cases) Rules, 2007 – Termed as “Central Excise (Advance Rulings) Amendment, Rules 2017”

New Format SC(E) – 2 has been issued regarding disclosure of information in Application for Settlement Cases

Source: – *Vide Notification No.9/2017-CENTRAL EXCISE (N.T.) dated April 12, 2017*

#### 10. Excise - Amendment in CENVAT credit Rules, 2004

This notification seeks to amend CENVAT credit Rules, 2004 to allow the importer of the goods to take Cenvat credit on basis of the challan of payment of service tax by the said importer on the services provided by a foreign shipping line to a foreign charterer w.r.t. goods destined for India.

Source: – *Vide Notification No.10/2017-CENTRAL EXCISE (N.T.) dated April 13, 2017*

#### 11. Customs - Amendment in Notification No. 8/2011 dated February 14, 2011

This notification seeks to amend Notification No.8/2011 dated February 14, 2011 so as to extend the exemption of additional duty of Customs to specified jute products imported from Nepal.

Source: – *Vide Notification No.15/2017- Cus, dated April 20, 2017*

#### 12. Customs - Exemption for Certain Goods

This notification seeks to exempt goods falling under chapter 30 of first schedule of Customs tariff Act 1975, for supply under Patient Assistance Programme run by specified pharmaceutical companies.

Source: – *Vide Notification No.16/2017- Cus, dated April 20, 2017*

#### 13. Customs - Exemption for Imported Goods

This notification Seeks to exempt goods, falling under the First Schedule to the Customs Tariff Act, 1975, when imported into India by or along with a unit of the Army, the Navy, the Air Force or the Central Paramilitary Forces on the occasion of its return to India after a tour of service abroad, from basic customs duty ('BCD'), CVD and SAD subject to the specified conditions.

Source: – *Vide Notification No.17/2017- Cus, dated April 21, 2017*

#### 14. Customs - Amendment in the Levy of Fees (Customs Documents) Regulations, 1970 – Now termed as “Levy of Fees (Customs Documents) Amendment Regulations, 2017

This notification seeks to amend Regulation 3 of Levy of Fees (Customs Documents) Regulations, 1970 with respect to the rate charged for the various purposes for as specified in the regulation.

Source: – *Vide Notification No 36/2017-Cus (NT), dated April 11, 2017*

### 15. Customs - Amendment in Customs (Settlement of Cases) Rules, 2007 – Termed as “Customs (Settlement of Cases) Amendment Rules, 2017

New Format SC(C) – 2 has been issued regarding disclosure of information in Application for Settlement Cases

Source: – Vide Notification No 37/2017-Cus (NT), dated April 12, 2017

### 16. Customs - DTA clearance of goods procured by EOUs/EHTP/STP units from indigenous sources - charging of Duty

This notification clarifies that –

- a) The indigenous goods supplied to the EOUs/EPZ/SEZ/EHTP/STP units after availing the deemed export benefits are to be treated as ‘imported goods’ and accordingly, duty as applicable to the imported goods is liable to be paid.
- b) Once the goods are treated as imported goods and applicable Customs Duty is paid at the time of their transfer/sale back into DTA or exit, there is no requirement of refund of the deemed export benefits availed on such goods or for the production of a certificate from the Development Commissioner regarding refund or non-availment of deemed export benefits at the time of clearance of such goods or exit.
- c) Alternatively, the EOU/STP/EHTP units would also be allowed to clear the domestically procured goods or on exit, on payment of Excise Duty as per Notification No. 22/2003-CE dated March 31, 2003 only on production of certificate from Development Commissioner to the effect that deemed export benefits have been paid back or not availed, as the case may be.

Source: – Vide Circular No. 13/2017 dated April 10, 2017

### 17. Customs - Delayed, incomplete or incorrect filing of Import manifest

This notification sets out the detail procedure for availing the facility of advance/ prior bill of entry which was not availed due to the tedious process of IGM amendments by the dealers. Further it prescribes the Format of “Application for Amendment in the IGM” and corresponding Annexure.

Source: – Vide Circular No. 14/2017 dated April 11, 2017

## COMPANY LAW

### 1. Notification of Companies (Removal of names of Companies from the Register of Companies) Amendment Rules, 2017

The MCA vide Notification dated April 12, 2017 has amended the Companies (Removal of names of Companies from the Register of Companies) Rules, 2017

The detailed information is given in the below link

Source: [http://mca.gov.in/Ministry/pdf/CompRemovalofNamesRules\\_13042017.pdf](http://mca.gov.in/Ministry/pdf/CompRemovalofNamesRules_13042017.pdf)

## 2. Notification of Companies (Compromise, Arrangements and Amalgamations) Amendment Rules, 2017

The MCA vide Notification dated April 13, 2017 has amended the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016. With this notification following changes would come into effect:

A foreign Company incorporated outside India may merge with an Indian Company after obtaining prior approval from Reserve Bank of India and after complying with the provisions of Sections 230 to 232 of the Act and rules made thereunder.

The detailed information is given in the below link

Source: [http://mca.gov.in/Ministry/pdf/CompaniesCompromises\\_14042017.pdf](http://mca.gov.in/Ministry/pdf/CompaniesCompromises_14042017.pdf)

## 3. Commencement Notification of provisions of Section 234 of the Companies Act, 2013

The MCA vide Notification dated April 13, 2017 has notified the provisions of Section 234 of the Companies Act, 2013 related to Merger and Amalgamation of Company with Foreign Company.

The detailed information is given in the below link

Source: [http://mca.gov.in/Ministry/pdf/section234Notification\\_14042017.pdf](http://mca.gov.in/Ministry/pdf/section234Notification_14042017.pdf)



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