Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, FEMA, SEBI, RBI during the last month for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/ notification. You are requested to please submit your feedback and suggestions on the column at **eboard@icai.in**

(Matter on Direct Taxes has been contributed by the Direct Taxes Committee of the ICAI)

I. NOTIFICATIONS

1. Simplification of procedure for Form No. 15G & 15H-*Notification No. 4/2015, dated 01-12-2015*

Section 197A of the Income-tax Act provides for no deduction in certain case by submitting a declaration using Form 15G/15H as laid down in Rule 29C of the Income tax Rules. The manner of filing such declaration and the particulars have been laid down in Rule 29C of the Income tax Rules. The person responsible for paying any income of the nature referred to in sub Section (1) or sub Section (1A) or sub Section (1C) of Section 197A (hereinafter called "payer") shall enable the payee to furnish the declaration in electronic form after due verification through an electronic process. The declarant shall mandatorily quote his/her PAN in the declaration form 15G/H in accordance with the provisions of Section 206AA(2).

A unique identification number shall be allotted to declaration (paper/electronic). The payer shall digitise the paper declaration and upload all declarations (including electronic declaration and digitized declaration) received during a particular quarter at departmental site (www.incometaxindiaefiling.gov.in) on quarterly basis. Further, clause 5 of rule 29C provides that the payer shall also furnish transactions covered under 15G/15H declarations in quarterly TDS statement in accordance with the provisions of clause (vii) of sub rule (4) of rule 31A irrespective of the fact that no tax has been deducted in the said quarter.

In exercise of the powers delegated by the CBDT under sub para (7) of para 2 of Notification issued *vide* S.O. No.2663(E) dated 29th September 2015, the Principal Director General of Income-tax(Systems) has specified the procedure, formats and standards in this regard is as under:

a) **Furnishing and verification of the electronic declaration**

The payer shall be responsible for proper verification of the declarant through an electronic process and shall implement the verification process after due diligence to ensure non-repudiation of the declarant. The payer shall archive log of all electronic activities in the process of furnishing of electronic declaration and the payer shall be responsible to establish the identity and credentials of the declarant in case of any dispute. The declarant shall mandatorily quote his/her PAN in the declaration form 15G/H in accordance with the provisions of Section 206AA(2).

b) **Allotment of UIN (Unique Identification Number)**

UIN shall consist of following three fields (i), (ii) & (iii):

(i) Sequence Number (10 alphanumeric for Form 15G/15H) given as follows;

15G	15H
10 alphanumeric characters starting with G followed by 9 digits) Eg. G000000001)	10 alphanumeric characters starting with H followed by 09 digits) Eg. H0000000001)

(ii) Financial year for which declaration is being furnished

(iii) TAN of the payer

Paper declaration shall be digitised by the payer and the same shall bear sequence number out of the same "running sequence number(Field 'a' of UIN) series", as used for online submission.

UIN running sequence number series shall be reset to 1 in case of each TAN of the payer at the start of each F.Y.

c) **Furnishing or making available the declaration to the income-tax authority.**

a. The payer will upload, the 15G and 15H declarations (digitised/electronic) received during a quarter, on quarterly basis, in the

file format given on the e-filing site (www.incometaxindiaefiling.gov.in).

b. In addition to the above, the payer shall quote "sequence number" (Field 'a' of UIN) in quarterly TDS statement against the transaction covered under 15G/H declaration in accordance with the provisions of clause (vii) of sub rule (4) of rule 31A irrespective of the fact that no tax has been deducted in the said quarter.

d) **Reconciliation Mechanism**

i. The payer will be responsible for reconciliation of the allotted UINs *vis-a -vis* reported UINs to the ITD through reporting in quarterly TDS statement as well as through upload of declarations on quarterly basis.

ii. The payer shall file exceptional report for the following UINs:

i) UINs not reported in TDS statements

ii) UINs not uploaded on ITD website.

2. Stringent authentication mechanism through corporate headquarter server for filing of correction statements & download of TDS certificate, consolidated files etc. by banks/corporate–*Notification No. 3/2015, dated 1-12-2015*

Section 200 of the Income-tax Act, 1961 provides for filing of TDS statements. The manner of filing such statements and the particulars have been laid down in Rule 31A of the Income-tax Rules, 1962. In exercise of the powers delegated by the CBDT under Explanation to sub-rule (5) of rule 31A of the Income-tax Rules 1962, the Principal Director General of Income-tax (Systems) has laid down the authentication mechanism for filing of correction statements & download of TDS certificates, Consolidated files *etc.* by Banks and Corporates deductors.

3. Agreement and protocol for avoidance of double taxation and prevention of fiscal evasion with Thailand–*Notification No. 88/2015, dated 1-12-2015*

In exercise of the powers conferred by section 90 of the Income-tax Act, 1961, the Central Government has directed that all the provisions of the agreement and protocol between the Government of the Republic of India and the Government of the Kingdom of Thailand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was signed in Thailand on 29.06.2015, and came into force on 13th October, 2015, shall have effect in India in respect of income derived in any fiscal year beginning on or after 01.04.2016.

4. Service of notice, summons, requisition, order and other communication–Insertion of new Rule 127-the Income-tax (18th Amendment) Rules, 2015-*Notification No. 89/2015, dated 02.12.2015*

Section 282 provides for the different modes of service of notice or summon or requisition or order or any other communication under the Income-tax Act, 1961 to the assessees. The address (including email ids) to which such communication may be delivered is notified *via* this Notification.

For communications to be delivered or transmitted through post/courier and/or as provided under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons, the following addresses may be referred:

(i) the address available in the PAN database of the addressee; or

(ii) the address available in the income-tax return to which the communication relates; or

(iii) the address available in the last income-tax return furnished by the addressee; or

(iv) in the case of addressee being a company, address of registered office as available on the website of Ministry of Corporate Affairs:

However, the communication shall not be delivered or transmitted to the address mentioned in item (i) to (iv) where the addressee furnishes in writing any other address for the purposes of communication to the income-tax authority or any person authorised by such authority issuing the communication.

For communications to be delivered or transmitted electronically, the following addresses may be referred:

(i) e-mail address available in the income-tax return furnished by the addressee to which the communication relates; or

(ii) the email address available in the last income-tax return furnished by the addressee; or

(iii) in the case of addressee being a company, email address of the company as available on the website of Ministry of Corporate Affairs; or

(iv) any email address made available by the addressee to the income-tax authority or any person authorised by such income-tax authority.

The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for ensuring secure transmission of electronic communication and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to such communication.

5. Societies procuring and marketing milk can exercise option of Safe Harbour Rules -the Income-tax (19thAmendment) Rules, 2015-*Notification No. 90/2015, dated 8-12-2015*

Under Section 92CB, the CBDT has the power to make rules for safe harbour. Further, under Section 92D the CBDT has the power to make rules regarding keeping and maintenance of specified information and document for assessees entering into an international transaction or specified domestic transaction. Exercising the powers conferred under such Sections, the CBDT has notified the Income-tax (19thAmendment) Rules, 2015 amending Rules 10D, 10THA, 10THB, 10THC, 10THD and Form No 3CEFB.

The scope of eligible assessee under Rule 10THA has been extended and it now also includes a co-operative society engaged in the business of procuring and marketing milk and milk products. Accordingly, Rule 10THB now includes purchase of milk or milk products by a co-operative society from its members as an eligible specified domestic transaction. Further, Rule 10THC has been amended to provide the specified circumstances for eligible specified domestic transaction of purchase of milk or milk products as follows:

The price of milk or milk products is determined at a rate which is fixed on the basis of the quality of milk, namely, fat content and Solid Not Fat (SNF) content of milk; and-

(a) the said rate is irrespective of,-
  (i) the quantity of milk procured;
  (ii) the percentage of shares held by the members in the co-operative society;
  (iii) the voting power held by the members in the society; and
(b) such prices are routinely declared by the cooperative society in a transparent manner and are available in public domain.".

Rule 10THD has been amended to provide that the due date for submitting form 3CEFB in respect of the eligible specified domestic transaction of purchase of milk or milk products undertaken during the previous year relevant to the assessment year 2013-14, assessment year 2014-15 and assessment year 2015-16 is 31st December, 2015.

Consequently, Form 3CEFB containing the application for Opting for Safe Harbour in respect of Specified Domestic Transactions and Rule 10D providing for information and documents to be kept and maintained under Section 92D have also been amended.

The complete text of the above Notifications can be downloaded from the link below: http://www.incometaxindia.gov.in/Pages/communications/notifications.aspx

II. CIRCULARS

1. Explanatory Notes to the provisions of the Finance Act, 2015–*Circular No. 19/2015, dated 27-11-2015*

Explanatory notes to the provisions of the Finance Act, 2015 as assented by President on 14th May, 2015 have been given by way of this circular. This circular thus explains the substance of the direct tax provisions of the Act contained in the Finance Act, 2015.

2. Deduction of tax at source from salaries u/s 192 during the Financial year 2015-16-*Circular No. 20/2015, dated 02-12-2015*

The CBDT has, through this circular, provided the rates for deduction of income-tax from the payment of income chargeable under the head "Salaries" during the financial year 2015-16 and explained certain provisions of the Income-tax Act, 1961 and Income-tax Rules, 1962.

3. Revision of monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal and High Courts and SLP before Supreme Court–measures for reducing litigation-*Circular No. 21/2015, dated 10-12-2015*

The CBDT has, through this Circular revised the monetary limits for filing of appeals by the Department with the objective of reducing litigation as a part of its initiatives to reduce grievances of the taxpayers.

The monetary limits for filing of appeals by the Department before the Income Tax Appellate Tribunal and the High Courts have been revised to tax effect of ₹10 lakh and ₹20 lakh, respectively, from the present limits of tax effect of ₹4 lakh and

₹10 lakh. The monetary limits for filing of appeals by the Department before the Supreme Court is ₹25 lakh. The revised limits have been made applicable retrospectively to pending appeals also. Directions have been issued that pending appeals which are below the revised monetary limits may be withdrawn or not pressed.

The detailed circulars can be downloaded from the link below: http://www.incometaxindia.gov.in/Pages/communications/circulars.aspx

III. Press Releases/ Letter

1. Clarification regarding unauthenticated reports on conciliation in the Vodafone Case Press Release dated 18-11-2015

There are some unauthenticated stories in media about offer of conciliation of Vodafone caseoutside arbitration. Vodafone has in a written communication expressed its desire to go for conciliation for its tax disputes with India. In response, the Government has held one preliminary meeting to explore terms of referenceof such a conciliation on 10th October.

The CBDT has, through this press release clarified that it has not yet finalised contours of Terms of Reference. There would be more follow upmeetings required.

2. Signing Advance Pricing Agreements (APAs)–Press Release dated 27-11-2015

It has been the endeavour of the Government to foster an environment of co-operation in matters of taxation through predictability of laws and reduced litigation. In a major push towards providing certainty to foreign investors in the arena of transfer pricing, the CBDT has entered into 11 more unilateral Advance Pricing Agreements (APAs). These APAs were signed with Indian subsidiaries of foreign companies operating in various segments of the economy like investment advisory services, engineering design services, marine products, contract R&D, software development services, IT enabled services, cargo handling support services, etc.

While 7 of these APAs have rollback provisions contained in them, the other 4 are Agreements for future five years. APAs with rollback provisions can cover a maximum period of 9 years in total. With this round of signing, CBDT has so far entered into 31 APAs (30 unilateral and one bilateral).

The APA programme was introduced in the Income-tax Act, 1961 in 2012 *vide* the Finance Act, 2012. 5 APAs were concluded in the first year and 4 APAs got signed in the second year. The pace of negotiations has picked up in the current year. This year has already witnessed the conclusion of 22 APAs. It is the aim of the CBDT to finalise another 30 to 40 APAs before the end of this fiscal to provide stability and confidence to foreign enterprises operating in India.

3. Expeditious issue of refunds below ₹50,000 in Non-CASS cases for AYs 2013-14 and 2014-15- Letter dated 2-12-2015

All the Principal Chief Commissioners of Income Tax have been directed *vide* this letter stating that as on 01.11.2015, there were 2.07 lakh returns involving refund claims of ₹659 crore for AY 2013-14 and 12.90 lakh returns involving ₹4,837 crore for AY 2014-15 still pending for processing and issue of refunds. These returns have not been selected for scrutiny under CASS.

While reviewing the pendency of refunds, the Revenue Secretary has directed that refunds in respect of cases not selected under CASS and involving refund of less than ₹50,000 for the assessment years 2013-14 and 2014-15 may be issued as early as possible. Most of the returns for AY 2013-14 have now been pushed by CPC-Bengaluru to AST. Similarly, some of the returns of AY 2014-15 may also have been pushed by CPC to the assessing officer.

In view of the above, all the Principal Chief Commissioners of Income Tax have been requested that the assessing officers in their Region may be advised to expeditiously process and determine refunds in non-CASS cases having claim of refund of less than ₹50,000/- and issue the same as early as possible.

4. Inauguration of the 6th meeting of the Automatic Exchange of Information (AEOI) group- Press Release dated 3-12-2015.

The 6th Meeting of the AEOI Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes was held at New Delhi on 3rd and 4th December, 2015. Shri Jayant Sinha, Hon'ble Minister of State for Finance inaugurated the meeting.

In his keynote address, Shri Sinha had emphasised that cooperation amongst countries and sharing

of information is the key to unearth illicit money stashed in safe havens. He had lauded the work done by the Global Forum and the AEOI Group in fostering a climate of increased cooperation amongst tax jurisdictions, which he said has resulted in dramatic improvements in transparency.

Earlier, Chairman, CBDT, delivered the welcome address and termed the process of exchange of information as a *"game changer for tax administrations".*

In the said meeting India's role in strengthening the mechanism of the exchange of information received lavish praise. Also India's contribution to the Global Forum was duly acknowledged.

The AEOI Group, which has 64 member countries presently, was mandated to develop a methodology to review the implementation of the new global standard on automatic exchange of information, i.e., the Common Reporting Standard (CRS). This review is carried out in a transparent manner with all Global Forum members participating in the process on an equal footing. During the 2-day meeting, one of the key areas of work was the specific reviews of the confidentiality and data safeguards procedures of certain tax jurisdictions.

An important development on the sidelines of the meeting was the signing of the Multilateral Competent Authority Agreement (MCAA) by Andorra, thus becoming the 75th country to have signed it. India had signed the MCAA on 3rd June, 2015.

5. Meeting between heads of Revenue Administration of India and Korea-Press Release dated 9-12-2015.

A meeting was held on 9th December, 2015 between Indian and Korean delegations headed by Revenue Secretary and Commissioner, National Tax Service, Korea under the Memorandum of Understanding for Mutual Co-operation between the countries. During the meeting, a new Memorandum of Understanding (MoU) on suspension of collection of taxes during pendency of Mutual Agreement Procedure (MAP) was signed. This MoU will relieve the burden of double taxation for the taxpayer in both the countries during the pendency of MAP proceedings. Further, both sides noted that transfer pricing dispute cases will be taken up for MAP under the revised DTAA between India and Korea. This is a step towards ease of doing business in India for Korean companies as it will relieve economic double taxation and promote cross-border trade and investment.

6. Clarification regarding defective notices issued to FII/FPIs-Press Release dated 10-12-2015.

Notices of defective returns were issued under section 139(9) of the Income-tax Act to Foreign Institutional Investors/Foreign Portfolio Investors (FIIs/FPIs) in cases where Balance Sheet and Profit and Loss account were not filled.

In order to overcome this difficulty, it has been clarified that such returns will not be treated as defective in cases where the FIIs/FPIs:

i. is registered with SEBI
ii. has no Permanent Establishment/Place of Business in India
iii. has provided basic information required under Section 139(9)(f) of the Income-tax Act, if there is business income

All such cases, where the SEBI registration number has been provided by the FIIs/FPIs in the return for AY 2015-16 are being taken up for processing at CPC Bengaluru. For previous assessment years where the above information is not available in the Income Tax Return, FII/FPI may provide such details in their online response on the e-filing portal of the Income-tax Department (www.incometaxindiaefiling.gov.in) to the previously issued notice u/s 139(9) of the Income-tax Act.

7. New facility of pre-filling TDS data while submitting online rectification –Press Release dated 10-12-2015.

The CBDT has simplified the process of online rectification of incorrect TDS details filed in the Income Tax Return. Taxpayers were required to fill in complete details of the entire TDS schedule while applying for rectification on the e-filing portal of the Income-tax Department (www.incometaxindiaefiling.gov.in). Errors due to incomplete TDS details in rectification applications were leading to delays in processing of such applications thereby causing hardship to the taxpayers.

To avoid this inconvenience, a new facility has been provided for pre-filling of TDS schedule while submitting online rectification request on the e-filing portal to facilitate easy correction or up-dating of TDS details. This is expected to considerably ease the burden of compliance on the taxpayers seeking rectification due to TDS mismatch.

Legal Update

8. Signing of Amended Convention between India and Japan- Press Release dated 11-12-2015.

On 11th December, 2015, India and Japan signed a Protocol for amending the existing Convention for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income which was signed in 1989. Dr. Hasmukh Adhia, Revenue Secretary, signed the Protocol on behalf of the Government of India with Mr. Kenji Hiramatsu, Ambassador of Japan on behalf of the Government of Japan.

The Protocol provides for internationally accepted standards for effective exchange of information on tax matters including bank information and information without domestic tax interest. It further provides that the information received from Japan in respect of a resident of India can be shared with other law enforcement agencies with authorisation of the competent authority of Japan and *vice versa*.

The Protocol also provides that both India and Japan shall lend assistance to each other in the collection of revenue claims. In addition, the Protocol provides for exemption of interest income from taxation in the source country with respect to debt-claims insured by the Government/Government owned financial institutions.

9. Initiatives for reducing litigation- Press Release dated 15-12-2015

In a noteworthy decision, the CBDT has issued an Office Memorandum directing Principal Chief Commissioners to constitute a collegium of Chief Commissioners of Income Tax comprising of two officers in their respective Regions. This collegium will consider withdrawal of appeals filed by the Department in cases involving tax effect above the revised monetary limit from the High Courts if no question of law is involved, the issue is considered settled by the Department or the appeal is no longer relevant in view of subsequent amendment.

This decision along with the decision to revise the monetary limits, are expected to reduce pending litigation filed by the Department by 50 % and provide relief to taxpayers facing long standing litigation.

10. Amendment of Rules regarding quoting of PAN for specified transactions–Press Release dated 15-12-2015.

The Government is committed to curbing the circulation of black money and widening of tax base. To collect information of certain types of transactions from third parties in a non-intrusive manner, the Income-tax Rules require quoting of PAN where the transactions exceed a specified limit. Persons who do not hold PAN are required to fill a form and furnish any one of the specified documents to establish their identity.

One of the recommendations of the Special Investigation Team (SIT) on Black Money was that quoting of PAN should be made mandatory for all sales and purchases of goods and services where the payment exceeds ₹1 lakh. Accepting this recommendation, the Finance Minister made an announcement to this effect in his Budget speech. The Government has since received numerous representations from various quarters regarding the burden of compliance this proposal would entail. Considering the representations, it has been decided that quoting of PAN will be required for transactions of an amount exceeding ₹2 lakh regardless of the mode of payment.

To bring a balance between burden of compliance on legitimate transactions and the need to capture information relating to transactions of higher value, the Government has also enhanced the monetary limits of certain transactions which require quoting of PAN. The monetary limits have now been raised to ₹10 lakh from ₹5 lakh for sale or purchase of immovable property, to ₹50,000 from ₹25,000 in the case of hotel or restaurant bills paid at any one time, and to ₹1 lakh from ₹50,000 for purchase or sale of shares of an unlisted company. In keeping with the Government's thrust on financial inclusion, opening of a no-frills bank account such as a Jan Dhan Account will not require PAN. Other than that, the requirement of PAN applies to opening of all bank accounts including in co-operative banks.

The changes to the Rules will take effect from 1st January, 2016.

The above changes in the rules are expected to be useful in widening the tax net by non-intrusive methods. They are also expected to help in curbing black money and move towards a cashless economy.

(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

A. SERVICE TAX

1. Scope of Term "Testing" clarified under Negative List in relation to agriculture or its produce.

Section 66D(d) of the Finance Act, 1994 under

Negative list covers services relating to agriculture or agricultural produce *by way of agricultural operations directly related to production of any agricultural produce* including cultivation, harvesting, threshing, plant protection or testing.

It may also be noted that the Finance Act 2013 omitted the word "seed" prefixed to "seed testing" in Negative List with an intent to allow the benefit to all other testing in relation to "agriculture" or "agricultural produce" and so as to broaden the scope of coverage of the negative list entry and not to limit its scope only to seeds.

Now, CBEC *vide Circular No. 189/8/2015-Service Tax dated 26th November 2015* has clarified that all testing and ancillary activities to testing such as seed certification, technical inspection, technical testing, analysis, tagging of seeds, rendered during testing of seeds, are covered within the meaning of testing as mentioned in sub-clause (i) of clause (d) of Section 66D of the Finance Act, 1994. *Testing cannot stand in isolation of certification and other ancillary activities. Testing cannot be random, somebody has to register for testing. If certificate is not received and seeds are not tagged, testing is irrelevant.* Thus, all processes are a part of the composite process and cannot be separated from testing. Therefore, such services are not liable to Service Tax under Section 66B of the Finance Act, 1994.

While clarifying this issue, CBEC, has referred the definition of Agriculture, Agriculture Produce, Agricultural operations defined in the Finance Act, 1994.

[Circular No. 189/8/2015-Service Tax dated 26th November 2015]

2. Clarification regarding applicability of service tax on the services received by apparel exporters in relation to fabrication of garments.

Department and Traders have taken a different view with regard to service tax payable on services received by the apparel exporters from third party for job work. Department is of the view that the services received by apparel exporters are of manpower supply, which neither falls under the negative list nor is specifically exempt, hence would be liable to service tax. However, traders are of the view that the services received by them are of job work involving a process amounting to manufacture or production of goods, and thus would fall under negative list [Section 66D(f)] and hence would not attract service tax.

The nature of manpower supply service is quite distinct from the service of job work. The essential characteristics of manpower supply service are that the supplier provides manpower which is at the disposal and temporarily under effective control of the service recipient during the period of contract. Service provider's accountability is only to the extent and quality of manpower. Deployment of manpower normally rests with the service recipient. The value of service has a direct correlation to manpower deployed, i.e., manpower deployed multiplied by the rate. In other words, manpower supplier will charge for supply of manpower even if manpower remains idle.

On the other hand, the essential characteristics of job work service are that service provider is assigned a job e.g. fabrication/stitching, labelling *etc.* of garments in case of apparel. Service provider is accountable for the job he undertakes. It is for the service provider to decide how he deploys and uses his manpower. Service recipient is concerned only as regard the job work. In other words service receiver is not concerned about the manpower. The value of service is function of quantum of job work undertaken, i.e. number of pieces fabricated etc.

Thus the exact nature of the service and applicability of service tax on the services received by apparel exporters in relation to fabrication of garments would be determined based on facts of each case which may vary. The terms of agreement and scope of activity undertaken by the service provider would determine the nature of service being provided.

[Circular No. 190/9/2015-ST, Dated: December 15, 2015]

B. CENTRAL EXCISE

3. Clarification regarding suspension of benefits under North East Industrial and Investment Promotion Policy (NEIIPP), 2007 by DIPP and its bearing on Central Excise duty Exemption.

CBEC *vide Circular Nos. 1012/19/2015-CX, Dated: December 2, 2015* has clarified that new units or units undertaking substantial expansion after 01.12.2014 and upto the cut-off date of 31.03.2017 in the North Eastern Region including Sikkim pursuant to the suspension of fresh registrations by the Department of Industrial Policy & Promotion (DIPP) for the schemes under North East Industrial and Investment Promotion Policy (NEIIPP), 2007 shall continue to be eligible for excise duty exemption under *Notification No.20/2007-Central Excise dated 25.04.2007* which

does not mandate registration under NEIIPP, 2007 to avail of the excise duty exemption thereunder.

Fresh registrations for the schemes under NEIIPP, 2007 have been suspended by the DIPP essentially due to shortage of funds allocated to DIPP. Therefore, DIPP *OM No. 10(1)/2014-DBA-II/NER dated 01.12.2014* has not suspended the entire package of incentives offered for the schemes under NEIIPP, 2007 as such.

[Circular No. 1012/19/2015-CX, Dated: December 2, 2015]

C. CUSTOMS

4. Provisional grant of Drawback-Rules amended w.e.f November 23, 2015

CBEC *vide Notification No. 109/2015-Customs (N.T), Dated: November 16, 2015* has amended Customs, Central Excise Duties and Service Tax Drawback (Second Amendment) Rules, 1995.

It has been provided that w.e.f. 23rd November 2015 no Drawback shall be allowed in respect of any of the goods falling within heading 1006 or on wheat falling within heading 1001 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). [Rule 3(1)(v) and Rule 6(4)]

Further, rule 7(3) dealing with provisional grant of drawback, has been amended to provide that *Provisional drawback amount, as may be specified by the Central Government, shall be paid by the proper officer of Customs and where the manufacturer or exporter desires that he may be granted further drawback provisionally* he may, while making an application under sub-rule (1), apply to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, in writing in this behalf in the manner as has been provided in clause (a) of sub-rule (2) of rule 6 for *the applications made under that rule along with details of provisional drawback already paid and the grant of further provisional drawback* shall be considered in the manner and subject to the conditions specified therein.

[Notification No. 109/2015- Customs (N.T), Dated: November 16, 2015]

5. All Industry Rates of Duty Drawback notified w.e.f. 23.11.2015

CBEC *vide Notification No. 110/2015-Customs (N.T.), Dated: November 16, 2015* has notified the All Industry Rates of Duty Drawback subject to the notes and conditions specified therein. These AIRs broadly take into account certain broad average parameters including, *inter alia*, prevailing prices of inputs, input output norms, share of imports in input consumption, the rates of central excise and customs duties, the factoring of incidence of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods, factoring incidence of duty on HSD/furnace oil, value of export goods, *etc.*

[Notification No. 110/2015-Customs (N.T.), Dated: November 16, 2015; Circular No. 29/2015-Customs, Dated: November 16, 2015]

6. Monitoring of pending bills of entry

CBEC *vide Instruction F.No.450/25/2009-Cus. IV Dated: November 18, 2015* has directed all Commissioners to implement an operating procedure by which they shall receive a list of all Bills of Entry pending for more than 72 hours from the time of either 'entry Inwards' or filing of bill of entry, whichever is later to examine the reasons for delay and in particular qualitatively evaluate the queries raised, if any.

Further, Chief Commissioners shall review all pending Bills of Entry, which are not cleared within 7 days (from date & time of 'entry inwards' or filing of bill of entry, whichever is later) with the Commissioners and Group. Where inordinate delays in clearance are noticed due to any systemic faults, the same should be taken up for remedial measures.

[Instruction F.No.450/25/2009-Cus.IV Dated: November 18, 2015]

7. Guidelines prescribed for handling and storage of valuable goods that are seized/ confiscated by the Department.

In order to prevent loss/theft of gold and high value goods from the strong rooms/seized goods godown, CBEC *vide Instruction F.No.394/97/2015-Cus (AS) dated December 1, 2015* has in continuation of the existing instructions/circulars in this regard issued guidelines reinforcing/re-iterating a strict compliance for handling and storage of seized/detained and confiscated goods.

Detailed guidelines are available at http://www.cbec.gov.in/htdocs-cbec/customs/cs-instructions/cs-instructions-2015/guidlns-handlng-strg-goods-cs-asu.pdf.

[Instruction F.No.394/97/2015-Cus (AS) dated December 1, 2015]

8. Clarification regarding timely cancellation of bond executed with Customs in advance authorisation cases.

Presently, substantial time is taken to cancel the bond executed by exporters with the Customs in terms of the advance authorisation notifications due to time taken for retrieval of bond file and re-verifying documentation submitted by exporter for obtaining the export obligation discharge certificate (EODC) from the Regional Authority of DGFT.

In this regard, CBEC *vide Instruction F. No. 605/71/2015-DBK dated December 2, 2015* has directed the Commissioners to make it a general practice that the bond file is retrieved from record prior to expiry of export obligation period and the confirmations, if any, are linked therein in advance. The work should be arranged in a manner that bond files are readily available for immediate processing. Where request for cancellation of bond is presented before expiry of the normal EO period, the bond file should be retrieved and readied for processing within 1 day.

Further, there exists guidelines that EODCs against advance authorisations issued by RAs may normally be accepted subject to following checks

(a) check, in detail, randomly at least 5% of the EODCs and when there is specific intelligence available suggesting misuse/need for detailed verification

(b) verify shipping bills/other documents based on RA's endorsement on EODC or verify the genuineness of non-EDI shipping bills/bills of export on which EODC is based.

In this regard, CBEC *vide Instruction F. No. 605/71/2015-DBK dated December 2, 2015* has provided that these random checks be restricted from present level of at least 5% cases to 5% cases which would also be in line with Handbook of Procedures, for FTP 2009-14 and FTP 2015-20.

The Commissioners are also directed that the selection parameters should be meaningful and practically applicable upfront without recourse to prior enquiry with exporter or long drawn analysis after EODC is received. Also, credibility and transparency be brought into the bond cancellation process for advance authorisations.

[Instruction F. No. 605/71/2015-DBK dated December 2, 2015]

Legal Update

9. Amendment in guidelines for Appointment of Common Adjudicating Authority

CBEC *vide Notification No. 60/2015-Customs (N.T.), dated 04.06.2015*, in terms of Section 152 of the Customs Act, 1962, has delegated its power to Principal Director General of Directorate of Revenue Intelligence (DRI), New Delhi for appointing officers of the rank of Commissioner of Customs or Additional Director General of the said Directorate for the purpose of adjudication of cases investigated by that Directorate.

Now, CBEC *vide Notification No. 133/2015-CUSTOMS (NT), Dated: November 30, 2015* has delegated its power to the Principal Director as well as Director General, Directorate General of Revenue Intelligence for appointing Principal Commissioner or Commissioner or Additional Commissioner or Joint Commissioner or Deputy Commissioner or Assistant Commissioner of Customs.

Further CBEC *vide Circular No. 18/2015-Cus, Dated: June 09, 2015* clarified that all cases of appointment of common adjudicating authority in respect of cases investigated by DRI will be handled by Principal DG, DRI with regards to the guidelines notified therein.

Now, CBEC *vide Circular No. 30/2015-Customs, Dated: December 04, 2015* has amended the existing guidelines and provided that the following cases investigated by DRI shall be assigned to Additional Director General (Adjudication), DRI:

(i) Cases involving duty of ₹5 Crores and above;
(ii) Group of cases on identical issues involving aggregate duty of ₹5 crore and more;
(iii) Cases involving seizure value of ₹25 Crore or more;
(iv) Cases involving wrong availment of export incentives where the export incentives wrongly availed is ₹5 Crore or more;
(v) Group of case on identical issues involving wrong availment of export incentives aggregating to ₹5 Crore or more;
(vi) Cases of overvaluation of import where overvaluation is ₹25 Crore or more; and
(vii) DRI case pending with erstwhile Commissioner (Adjudication).

In the cases other than above, the basis of appointment of common adjudicating authority will be maximum duty evaded/export incentive wrongly availed/amount of overvaluation of cases.

In respect of non DRI cases, appointment of common adjudication authority shall continue to be made by Board under Section 4 and Section 5 of Customs Act. This will include:

(i) Cases made by Commissionerate;
(ii) Non DRI cases pending with erstwhile Commissioner (Adjudication).

The amended guidelines would also apply for the cases falling under the jurisdiction of Additional Commissioner/Joint Commissioner/ Deputy Commissioner/Assistant Commissioner as reference to Commissioners is specifically mentioned in the guidelines.

[Notification No. 133/2015-CUSTOMS (NT), Dated: November 30, 2015; Circular No. 30/2015-Customs, Dated: December 04, 2015]

10. Village Janoli-Bhagola in Palwal notified for import and export of goods

CBEC *vide* Notification No. 137/ 2015-Customs (N.T.), Dated: December 7, 2015 has declared the following as Customs port in State of Haryana for the purpose mentioned against it:

S. No.	Place	Purpose
1.	(viii) Village Janoli-Bhagola, Tehsil Palwal.	Unloading of imported goods and loading of export goods

[Notification No. 137/ 2015-Customs (N.T.), Dated: December 7, 2015]

D. VALUE ADDED TAX

DELHI VAT:

11. Registration of dealers should be restored in 3 working days

Delhi Government *vide Circular No. 31 of 2015-16 F.3(475)/Policy/VAT/2014/1078-84, dated 26th November, 2015* has directed all the Zonal Authorities to ensure that the registration of the dealers should be restored within 3 working days once the proposal for restoration is approved by the Competent Authority.

[Circular No. 31 of 2015-16 F.3(475)/Policy/ VAT/2014/1078-84, dated 26th November, 2015]

12. Restriction on auto-downloading of central statutory forms online to prevent misuse.

Delhi Government *vide Circular No. 30 of 2015-16 F.3(556)/Policy/VAT/2015/1028-1034, dated 18th November, 2015* has prescribed that the facility of auto-downloading of the forms shall not be available for a tax period where the

ratio of purchase and sales (including stock transfer and local transactions) falls below 60%. In such cases, the forms shall be allowed to be downloaded only after scrutiny of returns by ward officer concerned.

Further, in following cases forms are allowed to be downloaded after approval of concerned ward officer:

(i) Dealers applied for cancellation of registration; or
(ii) Ward officer has issued a show cause notice; or
(iii) Registration has been cancelled.

[Circular No. 30 of 2015-16 F.3(556)/Policy/VAT/2015/1028-1034, dated 18th November, 2015]

KARNATAKA VAT:

13. Refund of input tax paid on purchase of inputs by a registered dealer who is a co-developer of Special Economic Zone (SEZ).

Karnataka Government *vide Circular No.17/2015/16 No. IPI/CR.21/2015-16, dated 4th December, 2015* has extended the fiscal benefit as available for the developer of SEZ to the co-developer of SEZ also subject to the following conditions:

(i) A registered dealer being a co-developer of SEZ is eligible for refund of input tax paid on purchases (other than petroleum products) from the output tax payable.
(ii) Eligibility of such refund is subject to production of certificate issued by Directorate of Industries & Commerce.
(iii) Such refund is eligible only if inputs are purchased for setting up, operation or maintenance of the processing area in SEZ (not for non-processing area of SEZ) for authorised operations w.e.f. 28.02.2009 or from SEZ notification whichever is earlier.
(iv) Further, Section 20(2) i.e. deduction of input tax on export and inter-state sales and to SEZ units and developers, of Karnataka Value Added Tax Act, 2003 and Rule 130-A of Karnataka Value Added Rules, 2005 be applicable to a co-developer of SEZ also.

[Circular No.17/2015/16 No. IPI/CR.21/2015-16, dated 4th December, 2015]

Legal Update

MAHARASHTRA VAT:

14. Clarification on applicability of revised rate of interest effective from 01.12.2015 for the Dealer in case of a Default

Maharashtra Government *vide Circular No. 18T of 2015, dated 20th November, 2015*, has clarified that the old rates of interest i.e. 1.25% of the amount of delayed tax payment, will apply where the default starts and ends before 1st December 2015. However, if the tax has become due before the 1st December 2015 and default continues after the 1st December 2015, then for the period of default before 1st December 2015, the old rates of interest shall apply and in so far as the default continues on or after 1st December 2015, the new rates will apply as per the slabs which shall commence on 1st December 2015.

[Circular No. 18T of 2015, dated 20th November, 2015]

RAJASTHAN VAT:

15. Extension for the verification of deposit of tax up to the year 2013-14 for the purpose of allowing the input tax credit.

Rajasthan Government *vide Notification No. F.16(100)/Tax/CCT/14-15/7115, dated 17th November, 2015* has amended the *Notification No. F.16(100) Tax/CCt/14-15/2787, dated 21st October, 2014* by substituting year '2012-13' by '2013-14' which provides the manner for verification of deposit of tax up to the year 2013-14 for the purpose of allowing the input tax credit, where the demand has been created due to mismatch of input tax credit claimed by a dealer.

[Notification No. F.16(100)/Tax/CCT/14-15/7115, dated 17th November, 2015]

16. Amendment in Rules 21 & 22A of Rajasthan Value Added Tax Rules, 2006

Rajasthan Government *vide Notification No. F.12(79)/FD/TAX/2014-103, dated 2nd December, 2015* has amended following rules of Rajasthan Value Added Tax Rules, 2006:

Rule 21 (Declaration Forms): A dealer who claims partial or full exemption from payment of tax on sale of goods to another dealer or person in a State, shall furnish to his assessing authority up to the due date of filing of annual return or audit report, a declaration or certificate or declaration in a new Form VAT-72 obtained from the purchasing dealer or person. Earlier Form-72 was not provided in the said rule.

Rule 22A: This rule provides for the determination of taxable turnover in case of transfer of property in goods involved in execution of works contract. Heading of table under the said rule is amended vide this notification which provides that the existing expression *"Labour charges as a percentage of gross value of contract"*, shall be substituted with the expression *"Deduction in percentage of gross value of contract"*.

[Notification No. F.12(79)/FD/TAX/2014-103, dated 2nd December, 2015]

TAMIL NADU VAT:

17. Date for issuing manual 'C' & 'F' forms extended from 30.09.2015 to 31.03.2016

Tamil Nadu Government *vide Circular No. 45/2015 CC4/678/2012, dated 10th December, 2015* has extended the date for issuance of manual 'C' & 'F' forms from 30.09.2015 to 31.03.2016.

[Circular No.45/2015 CC4/678/2012, dated 10th December, 2015]

TELANGANA VAT:

18. Implementation of mandatory usage of e-waybills by VAT dealers extended to 01.02.2016

Telangana Government *vide Circular No. CCT's Ref No. Enft/D2/172/2010, dated 1st December, 2015* has extended use of mandatory e-waybills from 01.12.2015 to 01.02.2016. However, cancellation of e-waybills within two hours shall be in force w.e.f. 01.12.2015. The dealers are hereby directed to make necessary arrangements to issue e-waybills which is mandatory w.e.f. 01.02.2016.

[Circular No. CCT's Ref No. Enft/D2/172/2010, dated 1st December, 2015]

19. Time limit for refund of tax has been reduced to 60 days from 90 days

Telangana Government *vide Notification No. G.O. Ms No. 235, dated 10th December, 2015* has reduced the time limit of 90 days for refund of tax mentioned under Rule 35 to 60 days.

[Notification No. G.O. Ms No. 235, dated 10th December, 2015]

UTTRAKHAND VAT:

20. Amendment in Section 48 and 49 of The Uttarakhand Value Added Tax Act, 2005

Following sections have been amended *vide* Uttarakhand Value Added Tax Act, 2015:

Section 48 (Import of Goods into the State against Declaration)

(1) Now e-declaration or e-certificate may also be obtained to bring, import or otherwise receive any goods into the state from any place outside the state.

(2) Where goods are consigned by road, the importer shall submit the following documents to be carried with the goods in movements:
   (i) duly filled and signed declaration, in duplicate, the details of which are entered in the online submitted trip sheet
   (ii) Copy of the trip sheet
   (iii) Invoice, Challan or like other documents related to such goods
   (iv) G.R./Bilty

(3) A new clause (c) has been inserted in Section 48(2) which states that, if authorised officer is satisfied that goods were transported without online submitting or without carrying copy of 'Trip-Sheet" & such goods are not the goods specified in Schedule 1 of Section 42(2) (1) and were not meant for personal use or consumption then it will be deemed that it is an attempt to evade assessment or payment of tax due or likely to be due.

(4) A *proviso* has been inserted in Section 48(3) which provides that in case e-declaration is used, the required details of such declaration should be duly filled online, and entered in the online submitted form, the copy of such e-declaration need not to be carried with the goods.

Section 49 (Import of Goods into the State by Rail, River, Air, or Post)

This section provides that when any goods are consigned by rail, river, air or post from outside the state, then importer shall furnish a declaration and he cannot carry the goods away, unless a copy of declaration duly endorsed by officer is carried with the goods.

A proviso has been inserted stating that where e-declaration is used, the required details of such declaration should be duly filled online, and entered in the online submitted form and the copy

of such e-declaration need not to be carried with the goods.

[Notification No. 332/XXXVI(3)2015/63(1)2015, dated 17th November, 2015]

(Matter on FEMA has been contributed by CA Manoj Shah, Mumbai and CA Hinesh Doshi, Mumbai)

A. Review of Foreign Direct Investment (FDI) Policy on various sectors

DIPP Press Note No. 12 (2015 Series) dated November 24, 2015

The Government of India has reviewed the extant FDI Policy on various sectors and has made amendments in the Consolidated FDI Policy Circular of 2015. Some of the important amendments amde in FDI Policy circular are given below:

i. **Definition of term "Manufacture" is added after para 2.1.25 of the FDI Policy:**
2.1.25 is: "Manufacture" with its grammatical variations, means a change in a non-physical object or article or thing – (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use, or (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.
Permitting Manufacturers to Undertake Wholesale and/or Retail, Including Through E-Commerce Without Government Approval
Para 6.2.5 of the FDI Policy is accordingly amended to be read as under:
Subject to the provisions of the FDI Policy, foreign investment in 'manufacturing sector' is under automatic route. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without government approval.

ii. **100% FDI in LLPs Permitted Under Automatic Route**
Para 3.2.5 of FDI Policy is amended to read as under:
FDI in LLPs is permitted, subject to the following conditions:
   a. FDI is permitted under the automatic route in LLPs operating in sectors/activities where 100% FDI is allowed, through the automatic route and there are no FDI linked performance conditions.
   b. An Indian company or an LLP, having foreign investment, will be permitted to make downstream investment in another company or LLP in sectors in which 100% FDI is allowed under the automatic route and there are no FDI linked performance conditions.
   c. FDI in LLPs is subject to the compliance of the conditions of LLP Act, 2008.

iii. **Investment by Companies/Trusts/ Partnerships Owned & Controlled by NRIs on Non-Repatriation Basis to be Treated as Domestic Investment**
Non-Resident Indians (NRIs) have special dispensation for investment in construction development and civil aviation sector and investment made by NRIs under schedule 4 of FEMA (Transfer or issue of Security by Persons Resident Outside India) Regulations is deemed to be domestic investment at par with the investment made by residents.
In order to attract larger investments, which are possible through incorporated entities only, the special dispensation of NRIs has now been also extended to companies, trusts and partnership firms, which are incorporated outside India and are owned and controlled by NRIs. (New Para is inserted in FDI Policy after para 3.1.3). Henceforth, such entities owned and controlled by NRIs will be treated at par with NRIs for investment in India.
Para 3.6.2(vii) is inserted and same to be read as under:
A company, trust and partnership firm incorporated outside India and owned and controlled by non-resident Indians will be eligible for investments under Schedule 4 of FEMA (Transfer or Issue of Security by persons Residents Outside India) regulations and such investment will also be deemed to be domestic investment at par with the investment made by residents.

iv. **Companies without Operations Not to Require Government Approval for FDI for Undertaking Automatic Route Sector Activities (Para 3.10.3.3 of FDI Policy Circular is amended)**
Approval requirements in respect of companies without operation have also been relaxed. It has now been decided that for infusion of foreign

investment into an Indian company which does not have any operations and also does not have any downstream investments, Government approval would not be required, for undertaking activities which are under automatic route. However, approval of government will berequired for such companies for infusion of foreign investment for undertaking activities which are under Government route, regardless of the amount or extent of foreign investment. Further as and when such a company commences business(s) or makes downstream investment, it will have to comply with the relevant sectoral conditions on entry route, conditionalities and caps.

v. **Investment by Swap Shares**

Para 3.5.6 of FDI Policy Circular is amended to read as under:

In case of investment by way of swap of shares, irrespective of the amount, valuation of shares will have to be made by a Merchant Banker registered with SEBI or an Investment Banker outside India registered with the appropriate regulatory authority in the host country. Approval of the government will also be a prerequisite for investment by swap of shares for sector under Government approval route. No approval of the Government is required for investment in automatic route sectors by way of swap of shares.

vi. **Raising the Threshold Limit for Approval by Foreign Investment Promotion Board (Para 5.2 of the FDI Policy is amended)**

The Minister of Finance who is in charge of FIPB would consider the recommendations of FIPB on proposals with total foreign equity inflow of and below ₹5,000 crore.

The recommendations of FIPB on proposals with total foreign equity inflow of more than ₹5,000 crore would be place for consideration of Cabinet Committee on Economic Affairs (CCEA).

The CCEA would also consider proposals which may be referred to it by the FIPB/the Minister of Finance (in charge of FIPB).

For other amendments relating to sectoral conditions on entry route, conditionalities and caps in various sectors refer below link at DIPP website– http://dipp.nic.in/English/acts_rules/Press_Notes/pn12_2015.pdf

Legal Update

B. Import of Goods into India – Evidence of Import

A.P. (DIR Series) Circular No. 29 dated November 26, 2015

In terms of para A.10.1 of A.P. (DIR Series) Circular No. 106 dated June 19, 2003, an importer has to submit as evidence of import, a) the exchange control copy of the Bill of Entry for Home Consumption; b) the exchange control copy of the Bill of Entry for Warehousing, in the case of 100% Export Oriented Units (EOUs); or c) Customs Assessment certificate or Postal Appraisal Form as declared by the importer to the Customs Authorities.

With the establishment of Free Trade Warehousing Zones/SEZ Unit warehouses, imported goods can be stored therein, for re-export / re-selling purposes for which Customs Authorities issue Ex-Bond Bill of Entry. AD banks are advised to consider the Bill of Entry issued by Customs Authorities named as Ex-Bond Bill of Entry or by any other similar nomenclature, as evidence for physical import of goods.

Further, in cases where goods have been imported through couriers, the Courier Bill of Entry, as declared by the courier companies to the Customs Authorities, may also be considered as evidence of import of goods.

C. Advance Remittance for Import of Aircrafts/ helicopters/other aviation related purchases

A.P. (DIR Series) Circular No. 30 dated November 26, 2015

Director General of Foreign Trade *vide* Notification No. 24/2015-2020 dated October 9, 2015 has announced amendment in Policy condition 1 of Chapter 88 of ITC (HS), 2012-Schedule–1 (Import Policy). Accordingly, AD Category–I banks may, while allowing advance remittance without bank guarantee or an unconditional, irrevocable standby letter of credit up to USD 50 million, ensure that only the requisite approval of DGCA for import of aircrafts/helicopters in terms of the extant Foreign Trade Policy has been obtained by the company for operating Scheduled or Non-Scheduled Air Transport Services (including Air Taxi Services). In other words, the approval from Ministry of Civil Aviation (MoCA) will not be required.

D. Investment by Foreign Portfolio Investors (FPIs) in Corporate Bonds

A.P. (DIR Series) Circular No. 31 dated November 26, 2015

It has been decided to permit FPI to acquire NCDs/bonds which are under default either fully or partly, in the repayment of principal on maturity or principal instalment in the case of amortising bond. The revised maturity period of such NCDs/bonds, restructured based on negotiations with the issuing Indian company, should be three years or more.

The FPI which propose to acquire such NCDs/ bonds under default should disclose to the Debenture Trustees the terms of their offer to the existing debenture holders/beneficial owners from whom they are acquiring. Such investment should be within the overall limit prescribed for corporate debt from time to time (currently ₹2443.23 billion). All other existing conditions for investment by FPIs in the debt market remain unchanged.

E. External Commercial Borrowings (ECB) Policy-Revised Framework

A.P. (DIR Series) Circular No. 32 dated November 30, 2015

As sufficient time has passed since the extant ECB framework was operationalised, a need was felt to undertake a review based on the experience gained in administering the ECB regime and the current financing ecosystem which, *inter alia*, allows issuance of Indian Rupee (INR) denominated bonds overseas by a wide set of borrowers. Based on the responses received and, in consultation with the Government of India, a revised ECB framework based on the following overarching principles has been finalised:

i. A more liberal approach, with fewer restrictions on end uses, higher all-in-cost ceiling, *etc.* for long term foreign currency borrowings as the extended term makes repayments more sustainable and also minimizes roll-over risks for the borrower;
ii. A more liberal regime for INR denominated ECBs where the currency risk is borne by the lender;
iii. Expansion of the list of overseas lenders to include long-term lenders, such as, Insurance Companies, Pension Funds, Sovereign Wealth Funds;
iv. Only a small negative list of end-use restrictions applicable in case of long-term ECB and INR denominated ECB;
v. Alignment of the list of infrastructure entities eligible for ECB with the Harmonised List of the Government of India.

The revised ECB framework will comprise the following three tracks:

Track I : Medium term foreign currency denominated ECB with Minimum Average Maturity (MAM) of 3/5 years.

Track II : Long term foreign currency denominated ECB with MAM of 10 years.

Track III : Indian Rupee denominated ECB with MAM of 3/5 years.

The guidelines for the revised ECB framework specifying the parameters and other terms & conditions are set out in the Annex to this Circular. It may be noted that these parameters will apply in totality and not on a standalone basis. Criteria for raising ECB under both routes, *viz.*, the automatic route where entities do not require the prior approval of the Reserve Bank for raising ECB and the approval route where entities can raise ECB only with the prior approval of the Reserve Bank are also given in the Annex.

The new ECB framework will come into force from the date of publication, in the Official Gazette, of the relative Regulations issued under FEMA. These Regulations are being issued separately.

For more details of new revised ECB framework specifying the parameters and other terms and conditions as set out in the Annex of the Circular please refer this circular on the RBI website at– https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/A320084163A24434DB5905EEB3F3296EBEC.PDF

(Matter on Corporate Laws has been contributed by CA. Rahul Joglekar)

MCA (www.mca.gov.in)

MCA general circular no. 15/2015 dated 30th November 2015- Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

MCA has directed that keeping in view requests received from various stakeholders, relax the additional fees payable on e-forms AOC4, AOC (CFS) AOC-4 XBRL and e- Form MGT-7 upto 30th December 2015, wherever additional fee is applicable. For a complete text of the circular, please refer the link: http://www.mca.gov.in/Ministry/pdf/General_Circular_No_15_2015.pdf

SEBI(www.sebi.gov.in)

SEBI circular no. CIR/CFD/CMD/15/2015 dated 30th November 2015-Formats for publishing financial results

Listing regulations by SEBI has prescribed various disclosures to be filed under various provisions contained therein. Various formats have been prescribed which shall come into force with effect from December 01, 2015. The regulations also deal with publication of previous period IndAS results in case of companies adopting Ind AS in terms of Companies (Indian Accounting Standards) Rules, 2015. The formats of limited review reported to be issued by auditors have also been prescribed. For a complete text of the circular, please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1448885855487.pdf

SEBI circular no. CIR/IMD/DF1/9 /2015 dated 27th November 2015- Format for financial results for listed entities which have listed their debt securities and/or non-cumulative redeemable preference shares.

Under the captioned circular, SEBI has prescribed separate formats for half yearly financial results and also for limited review reports for companies other than banks and NBFCs as well as for Banks and NBFCs. Manufacturing, trading and service companies may furnish the half-yearly financial results in the alternative format prescribed under the said circular. For a complete text of the circular, please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1448620165250.pdf

RBI(www.rbi.org.in)

RBI circular no. DBR.No.BP.BC.65/21.04.141/2015-16 dated 10th December 2015-SLR Holdings under Held to Maturity Category

RBI has directed that it would progressively bring down the SLR by 0.25% every quarter till March 31, 2017 and concurrently reduce the ceiling on SLR holdings under HTM in alignment with the SLR requirement. Certain relaxations have been given to the Banks to exceed the limit of 25 per cent of total investments under HTM category with certain conditions. For a complete text of the circular, please refer the link: https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10166&Mode=0 ■