

## DIRECT TAX

### News

#### **Decisions With Respect to Statutory and Regulatory Compliance Matters Taken by Finance Minister in view of COVID-19 Outbreak**

1. Extend last date for **income tax returns for (FY 18-19)** from 31<sup>st</sup> March, 2020 to **30<sup>th</sup> June, 2020.**

2. **Aadhaar-PAN linking** date to be extended from 31<sup>st</sup> March, 2020 to **30<sup>th</sup> June, 2020.**



3. **Vivad se Vishwas scheme** – no additional 10% amount, if payment made by **June 30, 2020.**

4. **Due dates for issue` of notice**, intimation, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents and time limit for completion of proceedings by the authority and any compliance by the taxpayer including investment in saving instruments or investments for roll over benefit of capital gains under Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalization Levy law, Vivad Se Vishwas law where the time limit is expiring between 20<sup>th</sup> March 2020 to 29<sup>th</sup> June 2020 shall be extended to **30th June 2020.**

5. For **delayed payments** of advanced tax, self-assessment tax, regular tax, TDS, TCS, equalization levy, STT, CTT made between 20<sup>th</sup> March 2020 and 30<sup>th</sup> June 2020, reduced interest rate at **9%** instead of 12 %/18 % per annum ( i.e. 0.75% per month instead of 1/1.5 percent per month) will be charged for this period. No late fee/penalty shall be charged for delay relating to this period.

6. Necessary legal circulars and legislative amendments for giving effect to the aforesaid relief shall be issued in due course.

7. **Donation to PM Cares Fund** – assessee will be entitled to 100% deduction of amount paid into PM cares fund with no restriction. Donation made from 01.04.2020 to 30.06.2020 can be claim either in FY 19-20 Or FY 20-21

### Notifications

**Notification No. 14/2020, dated 4th March, 2020**

In exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions related to Agreement between the Government of the Republic of India and the Government of Brunei Darussalam for the

exchange of information and assistance in collection with respect of taxes.

**Notification No. 15/2020, dated 5th March, 2020**

**Amendment of rule 17C to include investment made by National Payments Corporation of India in its subsidiary companies.**

**Notification No. 16/2020, dated 5th March, 2020**

CBDT notifies following securities for the purposes of sub-clause (d) of clause (viiab) of section 47 of the Income-tax Act, 1961

(i) foreign currency denominated bond;

(ii) unit of a Mutual Fund;

(iii) unit of a business trust;

(iv) foreign currency denominated equity share of a company;

(v) unit of Alternative Investment Fund,

which are listed on a recognised stock exchange located in any IFSC as per SEBI Rules.

**Notification No. 17/2020, dated 13th March, 2020**

The Central Government hereby specifies that a non-resident being an Eligible Foreign Investor which operates in accordance with the Securities and Exchange Board of India, shall be deemed as Foreign Institutional Investor (FII) for the purposes of transactions in securities made on a recognised stock exchange located in any International Financial Services Centre (IFSC), where the consideration for such transaction is paid or payable in foreign currency.

**Notification No. 18/2020, dated 18th March, 2020**

After Assent by President of **Direct Tax Vivad se Vishwas Act, 2020**, CBDT notifies **Direct Tax Vivad Se Vishwas Rules 2020** alongwith Relevant Forms which includes **Form 1 to Form 5.**

**Notification No. 19/2020, dated 20th March, 2020**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, (Department of Revenue), (Central Board of Direct Taxes).

“3. This notification shall be deemed to have been applied for the period from 01-06-2011 to 31-03-2012 in the assessment year of 2012-2013 and also from the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and shall apply with respect to the

assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023, and 2023-2024.”

**Notification No. 20/2020, dated 20th March, 2020**

The Assessing Officer working in the Principal Chief Commissioner of Income-tax (international Taxation) Region having Jurisdiction in respect of the assessee for the purpose of the Income-tax Act, 1961, to exercise or perform all or any of the powers and functions conferred on, or, assigned to an Assessing Officer for the purpose of Chapter VIII of Finance Act, 2016 .

**Notification No. 21/2020, dated 20th March, 2020**

CBDT issues corrigendum to **The Direct Tax Vivad Se Vishwas Rules 2020 and notifies that in Form-3, for ‘as per column (7) above within thirty days’, read ‘as per column (8) above within fifteen days’.**

**Circulars**

**Circular No. 7/2020, dated 4th March, 2020**

After introduction of Vivad se Vishwas in Lok Sabha, several queries have been received from tile stakeholders seeking clarifications in respect of various provisions contained therein. Government has considered these queries and decided to clarify the same in form of answers to frequently asked questions.

**Case Law**

**Penalty u/s 271(1)(C) cannot be levied where the adhoc estimation of Profit is made by the Assessing officer, hence there is no concealment of income or furnishing inaccurate particulars of such income**

**Income Tax Officer -3 (2) , Thane Versus Shri Premkumar Shehgal 2020 (3) TMI 1234 - ITAT Mumbai**

AO restricting the profit element in the purchases @15% , It is a settled position of law that penalty cannot be levied when an adhoc estimation is made. In this case an adhoc estimation was made by the Assessing Officer restricting the profit element in the purchases @15%. Assessing Officer had made only adhoc estimation of profit on certain purchases treated as unexplained expenditure. Assessing Officer did not doubt the sales made by the assessee from out of such purchases, hence there is no concealment of income or furnishing of inaccurate particulars as the profit element was determined by way of adhoc estimation.

**Even though assessee has not objected before the AO regarding valuation adopted by the Stamp Valuation Authority and made objection for the first time before the Ld. CIT(A) regarding valuation of the property. The Ld. CIT(A) has coterminous powers with the assessee officer, ought to have referred the matter for valuation to the Departmental Valuation Officer( in short DVO).**

**Shri Jaykishan Parchani S/o Shri Arjun Parchani Versus ITO-5 (5) Indore 2020 (3) TMI 1199 - ITAT Indore**

There is no dispute with regard to the fact that assessee had purchased immovable property and there was a difference of value as disclosed by the assessee and adopted by the Stamp Valuation Authority. It is also not a case where the assessee objected before the AO regarding valuation adopted by the Stamp Valuation Authority. The assessee first time made objection before the Ld. CIT(A) regarding valuation of the property. Since the Ld. CIT(A) has coterminous powers with the assessee officer, ought to have referred the matter for valuation to the Departmental Valuation Officer( in short DVO). Therefore, set aside this issue to the file of Ld. CIT(A) for deciding afresh after referring the matter to the DVO. The assessee would also be at liberty to file a valuation report if so advised. Assessee's Grounds allowed for statistical purposes.

**Additions based on mere presumptions and assumptions and without any corroborative evidence could not be sustained**

**D.C.I.T Central Circle-1 (2) , Ahmedabad. Versus M/s Angel Infra 2020 (3) TMI 1196 - ITAT Ahmedabad**

Assessment u/s 153C - Unexplained cash receipt u/s 69A.The only basis of making impugned addition was loose paper found at the premises of the third party. However, no corresponding incriminating material was found from assessee's premises which would corroborate the same. In fact, each and every document impounded from assessee's premises was explained during the course of assessment proceedings and no infirmity could be found in the same. It was incumbent upon Ld. AO to make further inquiries in the matter to substantiate the veracity of the loose paper and bring on record cogent material / evidences to establish that cash was received by the assessee. In the absence of any such incriminating material/ evidences, no such addition could be made in the hands of the assessee. It is also evident that booking of flats against which the cash was alleged to be received by the assessee was already cancelled much before the date of search and cheque amount was already refunded by assessee to other party which would further weaken the stand of Ld.AO. Therefore, no fault could be found with the approach of Ld. first appellate authority. Additions based on mere presumptions and assumptions and without any corroborative evidence could not be sustained. - Decided against revenue.

**Merely because CIT does not agree with the manner of enquiry conducted by the AO he cannot substitute his own reasons and held the order to be erroneous and prejudicial to the interest of the revenue**

**Arihant Technology Pvt. Ltd. Versus Pr. CIT New Delhi 2020 (3) TMI 1167 - ITAT Delhi.**

Revision u/s 263 - addition u/s 68 - reopening of assessment u/s 147 , In the instant case AO has

reopened the assessment on the basis of the information received from the Investigation Wing that assessee has received accommodation entry of ₹ 40 lacs from M/s. Sri Amarnath Finance Pvt. Ltd., a company controlled by Sh. Surinder Kumar Jain and Sh. Virender Kumar Jain who are known entry operators.

AO during the course of assessment proceedings has called for information from the assessee who filed the requisite documents such as the ITR, bank statement, PAN number, confirmation etc. of the lender company. We find the AO had issued notice u/s. 133 (6) to M/s. Sri Amarnath Finance Pvt. Ltd. who responded to such notice and filed the requisite documents as called for by the AO. Force in the arguments advanced by the Ld. Counsel for the assessee that the AO has examined the documents / confirmation in detail and adopted a possible view that the assessee has established the identity and creditworthiness of the lender and the genuineness of the transaction. In the instant case necessary enquiry was conducted. Therefore, merely because CIT does not agree with the manner of enquiry conducted by the AO he cannot substitute his own reasons and held the order to be erroneous and prejudicial to the interest of the revenue. It is decided in favour of assessee.

**Conversion of Limited Scrutiny into Complete Scrutiny and expanding the scope of limited scrutiny assessment without necessary approval is not valid under the law**

**Shri Narendrakumar Rameshbhai Patel Versus Dy. Commissioner Of Income Tax 2020 (3) TMI 961 - ITAT Ahmedabad**

On perusal of the notice for "Limited Scrutiny" it was clear that there was no mentioning/whisper about examination of the fact whether the



assessee was engaged in the business of property development. Assessing Officer has exceeded his jurisdiction by denying the deduction claimed u/s 54 of the Act on the reasoning that the assessee is engaged in the business of property development as the same was not mandated under the "Limited Scrutiny" notice issued under section 143(2) of the Act. Further DR before us has not brought anything on record justifying that the "Limited Scrutiny" was converted by the Assessing Officer under normal scrutiny after obtaining necessary approval from the appropriate authority.

In the instant case, when the Assessing Officer did not have the power to make a full-fledged assessment in limited scrutiny cases, the Commissioner (Appeals)'s power could not be enlarged beyond the power of the Assessing Officer in limited scrutiny cases. So, it was considered appropriate to remit the issue relating to allowance of depreciation in respect of the plinth to the file of the Assessing Officer for the purpose of fresh decision in accordance with law. Since the notice

under section 143(2)(i) was issued for limited scrutiny, the Assessing Officer was precluded from considering any other issue while making the assessment under section 143(3) under limited scrutiny. The decision of the Commissioner (Appeals) in considering the other claim of the assessee not covered in the notice issued under section 143(2)(i) for limited scrutiny was contrary to the provisions of the Act and, accordingly, was set aside.

**Unless the case is strictly covered by the provision, the assessee cannot be exposed to penalty. The penalty provision cannot be invoked unless a clear cut case is made out, only an incorrect claim by any stretch of imagination would not tantamount to furnishing inaccurate particulars.**

**The Principal Commissioner Of Income Tax-1 Versus Clp Power India Pvt. Ltd. 2020 (3) TMI 881 - Gujarat High Court**

Penalty u/s 271(1)(c), A bare perusal of the provisions of section 271(1)(c) would indicate that there has to be concealment of the particulars of the income or furnishing of inaccurate particulars of the income of the assessee. The meaning of the word "particulars" used in the Section 271(1)(c) would embrace the meaning of the details of the claim made. Unless the case is strictly covered by the provision, the assessee cannot be exposed to penalty. In short, the penalty provision cannot be invoked unless a clear cut case is made out, only an incorrect claim by any stretch of imagination would not tantamount to furnishing inaccurate particulars. A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such a claim made in the return cannot amount to furnishing the inaccurate particulars. Therefore, assuming for a moment, the claim was made as revenue expenditure, but in fact, it was found to be capital expenditure that by itself would not be sufficient to arrive at the conclusion that the case is one of inaccurate particulars.

**Addition on the basis of inadequate or insufficient evidence and without making any enquiry cannot be sustained**

**Pukhraj Lalchand Bagrecha Versus The Acit Central Circle-2 (4) Ahmedabad 2020 (3) TMI 867 - ITAT Ahmedabad**

Assessment u/s 153A, a search action u/s.132 has been conducted and seized incriminating documents including a document in question pertaining to purchasing of three bigha land wherein assessee's son has signed document with one of the sellers out of two sellers who owned the land and it was so-called decided to sale land at the rate of ₹ 9 lakhs per bigha and it is claimed to have been by the revenue authority that on same document thumb impression of one of the sellers and two witnesses are also there and appellant's son has signed on behalf of the assessee Bench cannot believe this fact of the revenue because no



statement of sellers were recorded by the department. If there was some doubt, revenue ought to have recorded statement of the seller along with statement of witnesses. The Department does not have any other evidence other than the so-called banachhitti wherein appellant's son has made an agreement to purchase land at the rate of ₹ 27 lakhs. On the basis of aforesaid so-called banachhitti, addition cannot be made. The Department ought to have collected more evidences and should have recorded the statement of the other concerned parties. Thus, in view of the inadequate/insufficient evidence and enquiry, bench deleted the addition.

**The jurisdiction assumed by the Assessing Officer to issue notice under Section 148 of the Act to non-existing company is substantive illegality and not the procedural violation of the nature adverted to in Section 292-B of the Act.**

**M/s Emudhra Ltd. Versus The Assistant Commissioner Of Income Tax, Circle - 2 (1) (2) , Bengaluru, The Deputy/Assistant Commissioner Of Income Tax, Circle - 1 (3) (2) , 2020 (3) TMI 689 - Karnataka High Court**

Reopening of assessment u/s 147 has been made and notice was issued to non-existing company. Notice was issued in the name of the amalgamating company. It was held that the jurisdiction assumed by the Assessing Officer to issue notice under Section 148 of the Act to non-existing company is substantive illegality and not the procedural violation of the nature adverted to in Section 292-B of the Act. The substantive defective notice issued against a non-existing company is not curable. On this ground alone, without adjudicating upon the other issues raised by the petitioner inasmuch as the limitation aspect, change of opinion, non-existence of tangible material and non-failure on the part of the assessee disclosing full and true material facts need not be examined. Without going into these aspects, the writ petition requires to be allowed on the ground of issuance of notice under Section 148 of the Act to the non-existing company and it was decided in favor of assessee.

**The penalties u/s 271(1)(c) and 271AAA are attracted in different situations and both are mutually exclusive. Having initiated the penalty u/s 271(1)(c), levy of penalty u/s 271AAA is not permissible.**

**T. Saimatha, T. Satyanarayana Versus Asst. Commissioner Of Income Tax Circle-1 (1) Visakhapatnam 2020 (3) TMI 283 - ITAT Visakhapatnam**

Penalty u/s 271AAA or 271(1)(c) - the AO has not dropped the penalty proceedings u/s 271(1)(c) before issue of show cause letter calling for explanation of assessee for levy of penalty u/s 271AAA. Therefore, it is a considered opinion that the AO has applied his mind and initiated penalty u/s 271(1)(c) and conducted the proceedings u/s 271AAA. Having conducted the search and

assessed the undisclosed income, the AO ought to have initiated the penalty proceedings u/s 271AAA instead of initiating the penalty u/s 271(1)(c). Hence, we are of the view that initiating the penalty u/s 271(1)(c) and conducting the proceedings u/s 271AAA is bad in law.

**Since the entire sale amount of long term capital gain have been invested in purchase of other property in the name of wife of assessee, assessee would be entitled for exemption u/s 54/54F on account of long term capital gains.**

**Shri Ramphal Hooda Versus The Income Tax Officer, Ward - 5, Haryana. 2020 (3) TMI 176 - ITAT Delhi**

Exemption u/s 54/54F- The issue is squarely covered by the decisions of the Hon'ble Delhi High Court. Since the entire sale amount of long term capital gain have been invested in purchase of other property in the name of wife of assessee, assessee would be entitled for exemption on account of long term capital gains. In this view of the matter, we set aside the Orders of the authorities below and delete the entire addition. The A.O. is directed to allow exemption of assessee.

**Where the complete explanation regarding the source of entries recorded in the diary were provided, which were explained to be part of unrecorded sales and the Assessing Officer also did not object to the said explanation. The addition cannot be made under section 69A of the Act and if the addition cannot be made under section 69A, the provisions of section 115BBE will not be applicable.**

**Kanpur Organics Pvt. Ltd. Versus Deputy Commissioner Of Income-Tax 2020 (3) TMI 279 - ITAT Lucknow**

The surrendered amount cannot be taxable under section 115BBE read with section 69A of the Act, it should be taxed as a regular business receipt. Here it is important first to visit the statement of the director of the assessee which was recorded during the course of survey. Bench have particularly gone through the answer to question No. 35 wherein the director of the assessee has clearly stated that the figures noted in the diary represented sales unrecorded in the books of account and these figures related to the period April 2015 to August 2015. In the present case, the addition under section 69A could have been made only if no explanation, regarding source of such income, was offered or the explanation offered by the assessee was not satisfactory in the opinion of the Assessing Officer. In the present case, as bench has already noted that the assessee had given complete explanation regarding the source of entries recorded in the diary, which were explained to be part of unrecorded sales and the Assessing Officer also did not object to the said explanation. Therefore, addition cannot be made under section 69A of the Act and if the addition cannot be made under section 69A, the provisions of section 115BBE will not be applicable.

## **GST**

### **News**

#### **Decisions With Respect to Statutory and Regulatory Compliance Matters Related to GST/Indirect Tax Taken by Finance Minister in view of COVID-19 Outbreak**

1. Last date for filing **GSTR-3B in March, April and May 2020** will be extended till the **last week of 30<sup>th</sup> June, 2020** for those having aggregate **annual turnover less than Rs. 5 Crore**. No interest, late fee, and penalty to be charged.
2. For any delayed payment made between 20<sup>th</sup> March 2020 and 30<sup>th</sup> June 2020 reduced rate of interest @9 % per annum ( current interest rate is 18 % per annum) will be charged. No late fee and penalty to be charged, if complied before till 30<sup>th</sup> June 2020.
3. Date for opting for composition scheme is extended till the last week of June, 2020. Further, the last date for making payments for the quarter ending 31<sup>st</sup> March, 2020 and filing of return for 2019-20 by the composition dealers will be extended till the last week of June, 2020.
4. Date for filing GST annual returns of FY 18-19, which is due on 31<sup>st</sup> March, 2020 is extended till the last week of June 2020.
5. Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring between 20<sup>th</sup> March 2020 to 29<sup>th</sup> June 2020 shall be extended to 30<sup>th</sup> June 2020.
6. Necessary legal circulars and legislative amendments to give effect to the aforesaid GST relief shall follow with the approval of GST
7. Payment date under **Sabka Vishwas Scheme** shall be extended to 30<sup>th</sup> June, 2020. No interest for this period shall be charged if paid by 30<sup>th</sup> June, 2020.

### **Customs**

8. 24X7 Custom clearance till end of 30<sup>th</sup> June, 2020
9. Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing applications, reports, any other documents etc., time limit for any compliance under the Customs Act and other allied Laws where the time limit is expiring between 20<sup>th</sup> March 2020 to 29<sup>th</sup> June 2020 shall be extended to 30<sup>th</sup> June.

#### **Input tax credit frauds rise 170% in just nine months of FY20**

The number of input tax credit (ITC) fraud cases under Goods & Services Tax (GST) in the first nine months of this financial year has risen 170 per cent more than that reported in the whole of last fiscal. During the same period, the amount involved is nearly 80 per cent of full FY19. The number of ITC fraud cases, based on fake invoices during April-December of this fiscal, surged to 5,986. This number was 2,211 in the 12 months of 2018-19 [Source- The Hindu Business line]

#### **Mobile phones to cost more as GST rate hiked to 18%**

The 39<sup>th</sup> GST Council headed by Finance Minister Nirmala Sitharaman took a bevy of decisions, including rising GST on mobile phones, specified parts to 18% from the existing 12%. The Goods and Services Tax (GST) on handmade, machine-made matchsticks has been rationalized to 12% while GST on MRO (maintenance repair overhaul) services of aircraft slashed to 5% from 18%. All rate related changes will come into effect on 1 April. [Source- livemint]

#### **39<sup>th</sup> GST Council Meeting decisions.**

The Goods and Services Tax on mobile phones and specified parts has been raised to 18 percent from 12 percent earlier.

For those with annual turnover below Rs 5 crore, the due date for filing annual return and reconciliation statement for FY19 was extended to June 30, 2020.

For those with annual turnover below Rs 2 crore in FY18 and FY19, no late fee will be charged.

The GST Council also decided that the interest for delay in payment of GST will now be charged on the net cash tax liability instead of gross with effect from July 1, 2017. The law will be amended for this retrospectively.

Know your supplier being introduced so that every business has information of suppliers they are in business with. [Source- bloombergquint]

### **Notifications**

#### **Notification No. 08/2020-Central Tax, dt. 02-03-2020**

##### **Notification issued to "Amend the CGST Rules, 2017 to prescribe the value of Lottery"**

The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organizing State, whichever is higher.

#### **Notification No. 09/2020-Central Tax , dt. 16-03-2020**

##### **Seeks to exempt foreign airlines from furnishing reconciliation Statement in FORM GSTR-9C.**

Persons who are foreign company which is an airlines company covered under the notification issued under sub-section (1) of section 381 of the Companies Act, 2013 (18 of 2013) and who have complied with the sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014 shall not be required to furnish reconciliation statement in FORM GSTR-9C to the Central Goods and Services Tax Rules, 2017 under subsection (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules.

#### **Notification No. 10/2020-Central Tax, dt. 23-03-2020**

##### **Seeks to provide special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs.**

The Union Cabinet has approved making Daman as the headquarter of Dadra & Nagar Haveli and Daman & Diu regions for taxation purposes, which will lead to common taxation authorities for goods and services tax (GST), value added tax (VAT) and state excise for all three regions. The government amended various tax acts covering the three tax systems, which will lead to saving for the exchequer and ensuring uniformity, stability and consistency in day to day functioning of taxation authorities.

**Notification No. 11/2020-Central Tax, dt. 23-03-2020 and Circular No.134/04/2020-GST.**

**Seeks to provide special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.**

The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP:

The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person.

**Notification No. 12/2020-Central Tax ,dt. 23-03-2020**

**Seeks to waive off the requirement for furnishing FORM GSTR-1 for 2019-20 for taxpayers who could not opt for availing the option of special composition scheme under notification No. 2/2019-Central Tax (Rate)**

Persons who have, instead of furnishing the statement containing the details of payment of self-assessed tax in FORM GST CMP-08 have furnished a return in FORM GSTR-3B under the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) for the tax periods in the financial year 2019-20, such taxpayers shall not be required to furnish the statement in outward supply of goods or services or both in FORM GSTR1 of the said rules or the statement containing the details of payment of self-assessed tax in FORM GST CMP-08 for all the tax periods in the financial year 2019-20." As the Revisional Authority under section 108 of the CGST Act, 2017.

**Notification No. 13/2020-Central Tax, dt. 23-03-2020.**

**Seeks to exempt certain class of registered**

**persons from issuing e-invoices and the date for implementation of e-invoicing extended to 01.10.2020.**

The council decided to defer introduction of e-invoicing till September 30. Date for implementation of e-invoicing extended to 01.10.2020.

**Notification No. 14/2020-Central Tax, dt. 23-03-2020.**

**Seeks to exempt certain class of registered persons capturing dynamic QR code and the date for implementation of QR Code to be extended to 01.10.2020.**

Where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

This notification shall come into force from the 1st day of October, 2020.

**Notification No. 15/2020-Central Tax, dt. 23-03-2020.**

**Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2018-2019 till 30.06.2020.**

Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 till 30.06.2020.

**Notification No. 16/2020-Central Tax, dt. 23-03-2020.**

**Seeks to make third amendment (2020) to CGST Rules.**

Every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under subsection (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner."

Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03."

**Notification No. 17/2020-Central Tax, dt. 23-03-2020.**

**Seeks to specify the class of persons who shall be exempted from Aadhar authentication.**

The Central Government, on the recommendations of the Council, hereby notifies that the provisions of sub-section (6B) or subsection (6C) of the said Act shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:-



- (a) Individual;
- (b) Authorized signatory of all types;
- (c) Managing and Authorized partner; and
- (d) Karta of a Hindu undivided family.

This notification shall come into effect from the 1st day of April, 2020.

**Notification No. 18/2020-Central Tax, dt. 23-03-2020.**

**Seeks to notify the date from which an individual shall undergo authentication, of Aadhar number in order to be eligible for registration.**

The date of coming into force of this notification as the date, from which an individual shall undergo authentication, of Aadhar number is 1st day of April, 2020.

If Aadhar number is not assigned to the said individual, he shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

**Notification No. 19/2020-Central Tax, dt. 23-03-2020.**

**Seeks to specify class of persons, other than individuals who shall undergo authentication, of Aadhar number in order to be eligible for registration.**

The Central Government, on the recommendations of the Council, hereby notifies the date of coming into force of this notification as the date, from which the -

- (a) Authorized signatory of all types;
- (b) Managing and Authorized partners of a partnership firm; and
- (c) Karta of a Hindu undivided family,

shall undergo authentication of possession of Aadhar number, as specified in rule 8 of the Central Goods and Services Tax Rules, 2017(hereinafter referred to as the said rules), in order to be eligible for registration under GST.

This notification shall come into effect from the 1st day of April, 2020.

**Notification No. 20/2020-Central Tax, dt. 23-03-2020.**

**Seeks to extend due date for furnishing FORM GSTR-7 for those taxpayers whose principal place of business is in the erstwhile State of Jammu and Kashmir for the July, 2019 to October, 2019 and November, 2019 to February, 2020 .**

The return by a registered person, required to deduct tax at source under the provisions of section 51 of the said Act in FORM GSTR-7 of the

Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017, for the months of November, 2019 to February, 2020, whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh shall be furnished electronically through the common portal, on or before the 24th March, 2020.”

**Notification No. 21/2020-Central Tax, dt. 23-03-2020.**

**Seeks to extend due date for furnishing FORM GSTR-1 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir or the Union territory of Jammu and Kashmir or the Union territory of Ladakh for the quarter October-December, 2019 till 24th March, 2020**

Registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir or



the Union territory of Jammu and Kashmir or the Union territory of Ladakh, shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 under the Central Goods and Services Tax Rules, 2017 effected during the quarter October-December, 2019 till 24th March, 2020.

**Notification No. 22/2020-Central Tax, dt. 23-03-2020.**

Seeks to extend due date for furnishing FORM GSTR-1 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, and having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for the month of October, 2019 and November, 2019 to February till 24th March, 2020..

**Notification No. 23/2020-Central Tax, dt. 23-03-2020.**

Seeks to extend due date for furnishing FORM GSTR-1 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for each of the months from July, 2019 to September, 2019 till 24th March, 2020.

**Notification No. 24/2020-Central Tax, dt. 23-03-2020.**

Registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 under the Central Goods and Services Tax Rules, 2017 effected during the quarter July-September, 2019 till 24th March, 2020.



**Notification No. 25/2020-Central Tax, dt. 23-03-2020.**

The return in FORM GSTR-3B of the said rules for the months of November, 2019 to February, 2020 for registered persons whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh, shall be furnished electronically through the common portal, on or before the 24th March, 2020 and for the months of October, 2019 in the erstwhile State of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 24th March, 2020.

**Notification No. 26/2020-Central Tax, dt. 23-03-2020.**

Seeks to extend due date for furnishing FORM GSTR-3B of the said rules for the months of July, 2019 to September, 2019 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 24th March, 2020.

**Notification No. 27/2020-Central Tax, dt. 23-03-2020.**

**Seeks to prescribe the due date for furnishing FORM GSTR-1 for the quarters April, 2020 to June, 2020 and July, 2020 to September, 2020 having aggregate turnover of up to 1.5 crore rupees.**

For April, 2020 to June, 2020 - 31st July, 2020  
July, 2020 to September, 2020 - 31st October, 2020.

**Notification No. 28/2020-Central Tax, dt. 23-03-2020.**

**Seeks to prescribe the due date for furnishing FORM GSTR-1 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from April, 2020 to September, 2020.**

The time limit for furnishing the details of outward supplies in FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from April, 2020 to September, 2020 till the eleventh day of the month succeeding such month.

**Notification No. 29/2020-Central Tax, dt. 23-03-2020.**

**Seeks to prescribe return in FORM GSTR-3B of CGST Rules, 2017 along with due dates of furnishing the said form for April, 2020 to September, 2020.**

The last date for filing of GSTR-3B for the taxpayers having annual turnover of Rs 5 crore and above in the previous financial year would be 20th of the month.

The tax filers from 15 States/ UTs, i.e., States of Chhattisgarh, Madhya Pradesh, Gujarat,

Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep will now be having the last date of filing GSTR-3B returns for the month of April to September, 2020 as 22nd of the following month without late fees.

For the remaining taxpayers whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi will now be having last date of filing the GSTR-3B for the month of April to September, 2020 as 24th of the following month without late fees.

**Circulars**

**Circular No. 132/2/2020-GST dated 18.03.2020 Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal -reg.**

Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

The prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

**Circular No. 133/2/2020-GST dated 23.03.2020.**

**Seeks to clarify issues in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules.**

The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.

The formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.

The ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in



respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.

For the purpose of apportionment of ITC pursuant to a demerger under sub rule (1) of rule 41 of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level.

#### **Case law**

#### **Assessee sought directions to GST Authorities to accept its Form GST TRAN-1 manually but High court denied.**

Assessee sought directions to GST Authorities to accept its Form GST TRAN-1 manually and Competent Authority was directed to permit assessee to submit offline Form GST TRAN-1 subject to furnishing a proof that it had tried to upload said Form and such attempt failed, since assessee failed to produce any document or evidence to prove that it had failed to upload its Form GST TRAN1 on account of any technical glitches on common portal and such attempt was made during transitional period, revenue was justified in passing order and denying credit of eligible duties to assessee.



#### **Decided by HIGH COURT OF RAJASTHAN in the case of Shree Motors v.**

#### **Union of India Civil Writ Petition Nos. 440 & 266 of 2020 Dated March 18, 2020**

#### **Respondent had not passed on benefit of reduction in GST rates on 'services by way of admission to exhibition of cinematograph films.**

Applicant alleged that respondent had not passed on benefit of reduction in GST rates on 'services by way of admission to exhibition of cinematograph films where price of admission ticket was above one hundred rupees' from 28 per cent to 18 per cent and 'services by way of admission to exhibition of cinematograph films where price of admission ticket was one hundred rupees or less' from 18 per cent to 12 per cent with effect from 1-1-2019, vide Notification No. 27/2018 - Central Tax (Rate) dated 31-12-2018, by way of commensurate reduction in prices, in terms of section 171 and instead, had increased base prices to maintain same cum-tax selling prices of admission tickets, it was held that respondent had indulged in profiteering in violation of provisions of section 171 and had not passed on benefit of reduction in rates of tax in respect of above services to its customers and therefore, it was liable for action under Rule 133 of CGST Rules, 2017.

#### **Decided by NATIONAL ANTI-PROFITEERING AUTHORITY in the case of Himanshu Sharma. v. NY Cinemas LLP -Case no. 15/2020 Dated March 12, 2020**

#### **Patanjali Ayurveda Ltd. had failed to provide proof of having passed on said benefit so directed to reduce the prices commensurately.**

Respondent, one of largest suppliers of FMCGs, was asked to intimate how he has passed on benefit of GST rate reduction with effect from 15-11-2017, vide Notification No. 41/2017 - Central Tax (Rate) dated 14-11-2017, to customers in respect of 127 goods, since respondent had failed to provide proof of having passed on said benefit, and DGAP claimed that respondent did not reduce selling price of products, when GST rate was reduced from 28 per cent to 18 per cent, benefit of reduction in GST rate was not passed on to recipient by way of commensurate reduction in price in terms of section 171 and, accordingly, respondent was directed to reduce the prices commensurately in terms of Rule 133(3)(a) of CGST Rules, 2017.

#### **Decided by NATIONAL ANTI-PROFITEERING AUTHORITY in the case of Director General of Anti-profiteering. V. Patanjali Ayurveda Ltd.-Case no. 16/2020 Dated March 12, 2020.**

#### **Subway Systems India Pvt. Ltd. (SSIPL) had denied benefit of tax reduction to his customers so liable to have committed an offence.**

Respondent (Franchisee Subway Systems India Pvt. Ltd. (SSIPL) had denied benefit of tax reduction to his customers/ recipients in contravention of provisions of section 171 (1) and resorted to profiteering in respect of restaurant service supplied by him, he shall be liable to have committed an offence under section 171 (3A) and therefore, will be liable for imposition of penalty. Further, there being adequate reasons to believe SSIPL may have profited by charging royalty and advertisement charges on increased net taxable sales DGAP was to be directed to further examine SSIPL for possible violations of provisions of section 171 and to submit his report as per provisions of rule 133 (5) (b) of the CGST Rules 2017.

#### **Decided by NATIONAL ANTI-PROFITEERING AUTHORITY in the case of Deputy Commissioner of State Tax V. Le Reve (P.) Ltd.-Case no. 14/2020 Dated March 11, 2020.**

#### **Revenue authorities to permit assessee to upload Form GST TRAN-1 within a period of two weeks from date of receipt of Court's order.**

Revenue authorities did not allow assessee's claim of CENVAT credit due to non-submission of Form GST TRAN-1, in view of fact that assessee could not upload said Form GST TRAN-1 due to technical glitches, petition filed by assessee was to be disposed of with a direction to revenue authorities to permit assessee to upload Form GST TRAN-1 within a period of two weeks from date of receipt of Court's order and, thereupon, allow assessee's claim after complete exercise of verification.

**Decided by HIGH COURT OF GUJARAT in the case of Rohan Dyes & Intermediates Ltd. V. Union of India - special civil application no. 19852 of 2018 Dated March 11, 2020.**

**Respondent had not passed on benefit of Input Tax Credit (ITC) availed which made it liable for imposition of penalty.**

Applicant, having purchased a flat in a residential complex developed by respondent-builder, filed a complaint that respondent had not passed on benefit of Input Tax Credit (ITC) availed by it by way of commensurate reduction in price of said flat, in view of fact that respondent had benefited from additional ITC to extent of 4.04 per cent of turnover during period from 1-7-2017 to 31-3-2019 and it had denied said benefit of ITC to buyers of flats in contravention of provisions of section 171(1), it could be concluded that respondent had resorted to profiteering and hence, it had committed an offence under section 171(3A) which made it liable for imposition of penalty. The respondent was also to be directed to reduce prices to be realized from buyers of flats commensurate with benefit of ITC received by it as per Rule 133(3)(a) of the CGST Rules, 2017

**Decided by NATIONAL ANTI-PROFITEERING AUTHORITY in the case of**

**Abhishek Singh V. Aparna Constructions & Estates (P.) Ltd.-Case no. 12/2020 Dated March 04, 2020**

**Respondent had not availed any benefit of CENVAT or ITC in pre and post GST era so not liable for imposition of penalty.**

Applicant having purchased a house from respondent, filed complaint alleging that respondent had not passed on benefit of Input Tax Credit (ITC) to him by way of commensurate reduction in price of house on introduction of GST i.e. 1-7-2017, in view of fact that there was no rate reduction i.e. 1-7-2017 in case of construction service for low cost affordable houses which applicant had purchased and, moreover, respondent had not availed any benefit of CENVAT or ITC in pre and post GST era, it could be concluded that respondent had not contravened provisions of section 171 and, therefore, application filed by applicant was to be dismissed

**RERA**

**DELHI RERA**

**News**

**CBI questions two prime accused in DHFL scam**

The CBI has questioned former UPPCL managing director A P Mishra and two prime accused in the Rs. 2,267 crore Employees' Provident Fund scam in Uttar Pradesh wherein savings of power sector employees was invested in Dewan Housing Finance Corporation, which is facing multiple probes of swindling funds worth Rs. 30,000 crore. The CBI took over the investigation into the scam on March 5, 2020 after taking over the FIR registered by Hazratganj Police station in Lucknow.

It is also alleged that the officials of UPPCL conspired to get the provident funds deposited in schemes of DHFL circumventing the rules which did not encourage such investments.

[Source: Economic Times]

**Ansal Properties challenges NCLT direction to initiate insolvency proceedings**

Ansal Properties and Infrastructure Ltd said that it has challenged an NCLT order that allowed insolvency proceedings against the company for default.

The company has filed an appeal against the aforesaid order before NCLAT.

On March 17, the National Company Law Tribunal (NCLT) has allowed a plea to initiate insolvency proceedings against realty firm Ansal Properties and Infrastructure Ltd and appointed an interim resolution professional replacing the board of the company.

The present petition being complete and having established the default in payment of the financial debt for the default amount being Rs one lakh, the petition is admitted.

[Source: Economic Times]

**Indiabulls Real Estate to buy back shares up to Rs 500 crore**

Indiabulls Real Estate said it will initiate process to buy back equity shares worth up to Rs 500 crore.

In November last year, the company's board approved buyback of up to 5 crore fully paid-up equity shares of a face value of Rs 2 each, representing about 11 per cent of its total existing paid-up equity capital, at Rs 100 a share, aggregating to total buyback size of Rs 500 crore.

In a regulatory filing, Indiabulls Real Estate said that "post completion of ongoing scheme of arrangement of Chennai assets on 19th March 2020, the company is eligible to launch the buyback".

The board-constituted buyback committee has advised the company management to initiate the process of obtaining shareholders' approval through postal ballot to implement the proposed buyback.

[Source: Economic Times]

**Real estate may witness working capital pressure: CRISIL**

The construction sector has seen credit pressure this fiscal because of slowdown in public spending and stretched working capital cycles, according to CRISIL.

With state resources focused on fighting Covid-19 and issues of labour availability, order execution and/or receivable collections are likely to be impacted, adding to working capital pressure, the company said in a recent report.

Weak business sentiment and some issues on labour availability can derail execution of real estate projects, especially on the urban side during Q1 fiscal 2021.

Extended impact would hit construction primarily led by non-availability of people and lockdown. Sales in real estate – specifically, the mid and high category – could be impacted as consumer sentiment remains weak. Commercial real estate demand could also decline, the report said.

[Source: Economic Times]

### **Delhi RERA Authority adjourns hearings upto 07.04.2020 to subsequent dates as a precaution to COVID-19:**

As on 16.03.2020 as a suitable precaution to pandemic corona virus and to ensure parties are not required to appear personally unless such appearance becomes indispensable, Delhi authority directed to adjourn various cases till 07.04.2020 to subsequent dates.

### **MAHARASHTRA RERA**

#### **News**

### **Covid-19 Impact: MahaRERA adjourns all cases till March 31**

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has adjourned all the cases before the authority and Adjudicating Officers till 31.03.2020 owing to the pandemic of Corona virus.

All the cases that were scheduled between 16.03.2020 and 31.03.2020 are being rescheduled except "very urgent matters", the MahaRERA said in a statement. The notice for these urgent matters will have to be given well in advance and only after satisfaction of urgency then matter could be taken up for hearing.

[Source: MahaRERA]

### **MahaRERA pulls up over 950 developers for not completing projects**

MahaRERA has pulled up 984 developers, for not completing projects within the deadline and seeking an extension from the real estate regulatory authority.

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has called these developers for suo motu hearings in April 2020. The hearings will involve both the developers and consumers, who have invested in their projects. The consumers will have the powers to remove a developer by revoking project registration.

[Source: Economics Times]

#### **Case Law**

### **Rohit Chawala and others VS Bombay Dyeing & Mfg. Co Ltd**

MahaRERA Tribunal Order to grant refund of Rs. 30 crore to home buyers

The judgment on Bombay Dyeing & Mfg. Co Ltd from MahaRERA Appellate authority dated 31.12.2019 is finally out on 12.03.2020 in favour of flat buyers, setting aside the earlier order by MahaRERA chairman which favoured the promoter.

The flat buyers had challenged the January 9, 2019 order of MahaRERA chairman saying that a bulk withdrawal from the project would jeopardise the entire project and impact 520 other flat buyers.

As of now, MahaRERA had been saying that section 12 of RERA is not applicable retrospectively or retroactively, which means MahaRERA was not allowing flat buyers to withdraw from the project despite builders not adhering to the promised design and layout of the project," Also, section 18 of RERA requires an agreement to be registered to give flat buyers interest and compensation for delayed possession. In this case, however, there was no registered agreement between the parties despite having paid the developer around 20 per cent (Rs. 2.00 crore) towards the flat cost at the time of booking in 2012-13.

In the 73-page judgement The appellate tribunal set aside the verdict of authority and directed the promoter to return the VAT and service tax with an interest of 10.5 per cent. It has also informed appellants that in case they required additional compensation for violation of sections 12 (misleading advertisements), section 14 (change of layout and plans) and section 18 (delayed possession of flat) under RERA, they may file a separate complaint before the adjudicating officer of RERA.

Tribunal added MahaRERA and adjudicating officers will be liable to consider a violation of section 12 and 14 whenever home buyers claim refund, and section 18 for delayed possession, even if the agreement is not registered but the onus is on the flat buyers to prove that the project was indeed delayed. MahaRERA cannot compel flat buyers to continue in the projects citing the larger interest of other flat buyers.

[Source: MahaRERA]

### **UP RERA**

#### **News**

### **UP builders may face fine up to Rs 7 crore for RERA Act violation**

The Real Estate Regulatory Authority (RERA) of Uttar Pradesh has issued show cause notices to ten developers for promoting under construction projects without RERA registration. Five notices have been issued to builders in NCR while five to builders in Lucknow, with the penalty amount ranging between R 3 lakh to R 7 crore.

UPRERA's Technical Team inspected the Promoter's project sites for fact finding. Advertisements were also given in the newspapers for creating awareness among Homebuyers. The promoters have been asked to present with their justifications and documents. The builder might face fine up to R 7 crore.

The notices were sent to Supertech Township Project Limited, Paramount Propbuild Pvt Ltd, Uppal Chadha Hi-Tech Developers Pvt. Ltd, Sunworld City Private Limited and ASG Developers Pvt Ltd in NCR and in Lucknow to Mayur Infrastructure, Unnishire Infratech Private Limited, Homeland Real Estate Construction and Developers, Kamakshi Infradevelopers Private Limited and Pacific Habitats India Pvt Ltd.

[Source: Economicstimes]

### **UP-RERA cancels all hearings till 31.03.2020**



In view of the Corona Virus (Covid-19) pandemic, UPRERA has decided to adjourn the hearing of all complaints listed between 18-03-2020 and 31-03-2020 both at Lucknow Headquarters and NCR Regional office. The rescheduled dates will be communicated later on.

The complainants desirous of early hearing on account of urgency of the matter can request for a date by writing to Secretary U.p. RERA on email id [contactuprera@up-rera.in](mailto:contactuprera@up-rera.in). The complaint will be listed for hearing after satisfaction of the concerned Bench about the urgency of the matter. [Source: UPRERA Website]

### **UP RERA Court Adopts Modern Concept Of 'E-Court' For The Welfare Of Homebuyers**

From March 2, 2020, the Uttar Pradesh RERA authorities have begun a digital module to redress the home-buyers and stakeholders grievances by adopting the integrated digital system.

Under the new system, the complainants and the respondents will have an interactive dashboard where all the information related to their cases are visible. All the information from the parties will be sought online aiming for the transparency in the process and achieving a paperless approach.

[Source: accommodationtimes]

### **Ansal Properties asks appeals tribunal to reverse insolvency proceedings verdict**

Ansal Properties and Infrastructure Ltd has challenged the initiation of insolvency proceedings in an appeals tribunal. The move comes after a lower court or the National Company Law Tribunal (NCLT) had ordered proceedings on a plea by two home buyers.

Ashok Tripathy and Saurabh Tripathy had jointly bought a unit measuring 3,764 square feet (sq ft) in the developer's township project -- Sushant Golf City -- in Lucknow in 2014 for Rs 1.62 crore.

Saurabh Tripathy had also bought a separate unit measuring 1,229 sq ft in the same project. Both the home buyers had moved the NCLT against Ansal Properties as financial creditors. Going by the agreements for both deals, the developer had to hand over possession two years later by 2017. According to the NCLT order, Ansal Properties has not completed the units.

The unit owners have, through a recovery letter produced by UP RERA (Uttar Pradesh Real Estate Regulatory Authority), claimed a financial debt of Rs 75,35,686 from Ansal Properties. The developer, which has only paid a part of the debt, has cited bad market conditions and a slowdown in the sector as reasons for the delay in the project. [Source: vccircle]

### **RAJASTHAN RERA**

#### **Rajasthan Housing Board (Amendment) Bill passed in assembly**

The Rajasthan Assembly passed the Rajasthan Housing Board (Amendment) bill-2020 by voice vote on 12<sup>th</sup> March, 2020.

In the amendment bill, four new sections have been included which are for the recovery of sum

due to the Board as arrears of land revenue, encroachment or obstruction upon premises or property belonging to the Board, call for records of the board etc.



According to UDH Data nearly 23,000 houses constructed by the board were unsold and the government has taken initiative to sell them by giving 25-30 per cent discounted rates. The board was also trying to improve quality of construction.

[Source : The Economic Times]

### **Rajasthan government consider to regulating unauthorised budget hotels.**

The Urban Development and Housing (UDH) department is considering a proposal to regulate unauthorised budget hotels operational in the residential areas of the city to boost the state revenue.

Rajasthan is a tourist state and these hotels are a major source of economic activity, the department will formulate a policy to regulate these units. Mandatory provisions of fire safety and policy will be incorporated in the policy.



Over the years, these hotels have illegally flourished near the bus stand area, railway station and many residential areas of the city. There are over 2,000 budget hotels operational in the state, including 525 in the state capital alone. The state is eyeing to earn Rs 1,000 Crore revenue after regulating these budget hotels. State Government also planning to bring a policy to regulate nearly 450 hospitals in the state capital and coaching institutes to earn revenue.

[Source: Economic Times]

### **Case Laws**

#### **Khubram Yadav (Complainant) Vs. Nimai Developers Pvt. Ltd. (Non-Complainant)**

#### **Flat is ready for Possession, or is near to Completion and still refund is allowed.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that complainant has sought the relief of refund of money with interest, monthly rental for the delay period, compensation for mental harassment and costs of litigation.

Complainant had entered into an agreement to booked a flat in the project "Nimai Greens" located at Bhiwadi, Rajasthan for a total consideration of Rs 32,35,088/ on 16.03.2020. As per the agreement, the non-complainant was to handover possession latest by November 2016, but there was an inordinate delay in completion of the project. The complainant has paid a total sum of Rs.31,22,267/- without any default towards said booked flat.

In December 2017, Non-Complainant offered for Possession and complainant on receipt of the said offer of possession visited the site and found that though he had opted for a PLC unit, i.e., a corner and park facing flat, but the non-complainant has built a tower on the park land, which is a clear case of fraud. The complainant approached the non-complainant to resolve his grievance or cancel the allotment, but they refused to discuss on it.

The non-complainant has stated that the complainant has been staying in one of the flat of the project from April, 2017 and his averment that the project is not completed yet is not correct. The non-complainant submitted copy of Fire NOC, Rajasthan Pollution Control Board letter for consent to operate till 31.12.2027, Completion Certificate given by the Architect, along with receipt of Rs.28,98,698/- deposited with UIT Bhiwadi.

After heard both the parties, authority asked Non-Complainant to furnish the building plans of the project. After perusal the same the authority finds variance from the plan incorporated in the agreement for sale as non-complainant changed the location of tower and offered the flat for possession, which was not park facing. The complainant is not willing to accept an alternative flat and authority cannot compel the allottee to take possession of the allotted flat.

In view of the above observations and findings, authority, in exercise of the powers conferred under section 37 and section 38 of the Act and in the interest of justice, issued the following directions:-

- (i) The non-complainant shall refund the deposited amount of Rs.31,22,267/-, without any deduction and without any interest, within 45 days from the date of issue of this order.
- (ii) The Registrar of the Authority shall separately issue a notice to the non-complainant company for not getting the project registered with the Authority, even though it was an ongoing project as on 01.05.2017 and required to be registered under section 3 of the Act.

**Suo Moto Vs. Govindkripa Buildheights LLP (The Promoter Company)**

**Penalty for not given Website Address of the Authority in the Advertisement.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that The Promoter Company had published an advertisement in the news paper Times of India on 27.10.2019 for the project "Jaypore", situated at Vidhydhar Nagar, Jaipur, registered with Authority vide registration no. RAJ/P/2017/203 without mentioned the Website Address of the Authority.

For the above violation of section 11(2) of RERA Act, the authority Suo-Moto issued a notice to the Promoter Company on 26.12.2019 to called upon to explain why a penalty equal to or upto 5% of the estimated cost of the project be not imposed on it under section 61 for the said violation.

In respect of the notice the Promoter Company has admitted the mistake and stated that inadvertently the website address of the authority was missed out in the advertisement and there was no malafide intention and apologized for the same.

Authority gone through the record of the case and looking to the fact and accept the contention of the Promoter Company.

Authority takes a lenient view of the matter and, in exercise of the powers conferred on the Authority under section 61 read with section 11 (2) of the Act, imposed a penalty of Rs.10,000/- only and direct the Promoter Company to deposit the said penalty amount with the Authority within 45 days from the date of order and submit a compliance report to the Authority within 15 days thereafter. The Promoter Company is also directed to ensure that no violation of the Act, or the rules or regulations made thereunder, is made by it in future.

**Suo Moto Vs. Paarth Infracore Pvt. Ltd (The Promoter Company)**

**Penalty for not given Website Address of the Authority in the Advertisement.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that The Promoter Company had published an advertisement in the newspaper "Rajasthan Patrika" for the project "Sundeck", situated at Kota, registered with Authority vide registration no. RAJ/P/2019/957 without mentioning the Website Address of the Authority and Registration Number of the project.

For the above violation of section 11(2) of the RERA Act, the authority Suo-Moto issued a notice to the Promoter Company on 26.12.2019 to called upon to explain why a penalty equal to or upto 5% of the estimated cost of the project be not imposed on it under section 61 for the said violation.

In respect of the notice the Promoter Company stated that they had given all details to the advertising agent and instructed to publish every advertisement along with RERA Registration number and Website address of the authority. The impugned advertisement was published in September 2019 without taking prior approval of the promoter company and due to inadvertent error on the part of the agent. After realization of said mistake the same has been rectified in the subsequent advertisement published in the same news paper on 13.10.2019.

The promoter company admitted the mistake of the agent and apologize for the inadvertent mistake occurred. Authority gone through the record of the case and looking to the fact and accept the contention of the Promoter Company

Authority takes a lenient view of the matter and, in exercise of the powers conferred on the Authority under section 61 read with section 11 (2) of the Act, imposed a penalty of Rs.25,000/- only and direct the Promoter Company to deposit the said penalty amount with the Authority within 45 days from the date of order and submit a compliance

report to the Authority within 15 days thereafter. The Promoter Company is also directed to ensure that no violation of the Act, or the rules or regulations made thereunder, is made by it in future.

**Arcahana Vasandani and similar 33 others (Complainant) versus Aerens Gold Souk International Ltd., Goldenline Infrastructure Pvt. Ltd. (Respondents)**

The Rajasthan Real Estate Regulatory Authority has held that in case no agreed date of possession is given under the agreement for sale, the project cannot be treated as delayed beyond the agreed date of possession and consequently section 18(1) of the Act cannot be invoked to award refund with interest. The counsel for the complainants submitted that the relief of refund with interest may be given with reference to the application form that contains the date of possession, the Authority held that since there is an express agreement for sale, the application form cannot be treated as agreement for sale. Further the counsel for the complainant argued that section 19(3) of the Act would apply and the estimated finish date given in the registration certificate of the project shall be treated as the stipulated date of possession to which the Authority held that this provision of the Act can be invoked for claiming possession and not interest or compensation. The Authority held that the even though not covered by section 18(1) may be covered by section 12 of the Act and accordingly directed the complainants to be dropped from Authority and transferred to Adjudicating Officer.

**HARYANA RERA**  
**News**

**Gurugram civic body collects Rs 49 crore property tax in last two months**

The Municipal Corporation of Gurgaon (MCG) has collected over Rs. 49 crore in the form of property tax in the last two months.



Zone 3, which includes upscale colonies such as DLF and Sushant Lok, topped the list with the maximum recovery of almost Rs 20 crore. It was followed by Zone 2 and Zone 4, where taxes amounting to Rs. 12.3 crore and Rs. 10.3 crore were recovered, respectively. Zone 1 was last with a collection of around Rs. 8 crore as property tax.

[Source: Economic Times]

**Adjournment of complaints listed for hearing from 18.03.2020 to 31.03.2020.**

On account of decision taken by the Administrative Committee or Hon'ble Punjab & Haryana High Court, followed by a resolution passed by Bar Council of Punjab & Haryana High Court and District Bar Association, Panchkula, all cases listed for hearing from 18.03.2020 to 31.03.2020 before the Haryana Real Estate Regulatory Authority, Panchkula and the

Adjudicating officer, HRERA. Panchkula, have been adjourned.

Next dates of hearing in each case will be posted on the website of the Authority.

**Amit Mehra and similar 69 others (Complainants) versus M/s Piyush Buildwell India Ltd. (Respondent)**

The Haryana Real Estate Regulatory Authority, Panchkula has held that when the complainants have paid the entire consideration amount and possession has been handed over to them, the verbal statement of proxy counsel that conveyance deeds are not being executed for the reason that holding charges may be due against some of the complainants cannot be held against the complainants in the absence of a written reply by the respondent and citation of precise amount of alleged holding charges payable. The Authority has held that once the possession has been handed over, it is to be presumed that on that date all the accounts between the complainants and the respondents would have been settled. Further the complainants also stated about the demand of certain additional amounts such as Stamp Duty, Registration Fees etc. by the respondent for getting the conveyance deed executed. The Authority held that these charges are payable to the state government authorities and need not be routed through the respondent. Accordingly the Authority directed the Registrar of relevant jurisdiction to help the complainants in calculating the charges of stamp duty etc. and directed the respondent to get the conveyance deed executed within 45 days of uploading the orders on the web portal of Authority.

**Case Laws**

**Mr. Robin Goel & Mrs. Neha Goyal V/S M/s Supertech Limited [Haryana RERA]**

Facts:

The present complaint dated 13.09.2019 has been filed by the allottees/complainants under 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the rules) for violation of section 11(4) (a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter se them.

That by virtue of clause I (25) of allotment letter executed between the parties on 07.04.2015, possession of the booked unit was to be delivered within stipulated time i.e. by 31.12.2018 plus grace period of 6 months to cover any unforeseen circumstances. Therefore, the due date of handing over possession comes out to be 30.06.2019. Accordingly, it is the failure of the respondent/promoter to fulfil his obligations, responsibilities as per the allotment letter dated 07.04.2015 to hand over the possession within the stipulated period.



The respondent has utterly failed in fulfilling their obligation to deliver of the unit as per the allotment letter and failed to offer possession in terms of section 11(4)(a) and 18 of the Act read with Rules.

Held:

There is non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delayed possession charges at the prescribed rate of interest i.e. @ 10.20 % w.e.f. 01.07.2019 till actual offer of possession of the booked unit as per the provision of section 18(1) of the Act read with rules 15 of the Rules.

The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period;

The respondent is directed to pay interest accrued so far from 01.07.2019 to the complainant within 90 days from the date of this order and subsequent interest to be paid by the 10th of each succeeding month.

Compensation Paid:

The respondent is directed to pay interest at the prescribed rate of 10.20 % p.a. for every month of delay w.e.f. 01.07.2019 till the offer of possession;

#### **MADHYA PRADESH RERA**

##### **Mandatory to submit brochure/ pamphlet etc.:**

From 07.02.2020, **MP RERA Authority** made it mandatory to submit brochure/pamphlet along with the application form. Also, as soon as the project gets registered, within 30 days from the date of its registration it is required to submit the brochure/pamphlet with RERA no. mentioned.

Also in the registration order, condition should be inserted that whenever any brochure/pamphlet is to be printed, copy of the same should be submitted in the RERA office.

##### **Fees Fixed for submission of application form for extension whose proposed end date is 01.01.2020 and thereafter:**

On 13.2.2020 vide order no. 1945/Order/RERA/2020, **MP RERA Authority** fixed the fee structure as follows, if application for extension is made:

- (i) Before 3 months from the date of completion : Normal Fee (Rs. 10 per sq. meter per year)
- (ii) Within 3 months before the date of completion: Normal Fee + 25% Late Fee
- (iii) Within 3 months from the date of completion: Normal Fee + 50% Late Fee
- (iv) Within 3-6 months from the date of completion: Normal Fee + 75% Late Fee
- (v) After 6 months from the date of completion: Normal Fee + 100% Late Fee

#### **Case Laws**

##### **Shiv Narayan Rupla vs MP Housing and Infrastructure Development Board**

***Maintenance charges cannot be a percentage on over and above basic selling price.***

Facts: The allottee complained that maintenance charges are being paid by him at the rate of 5% on Rs. 50,00,000, the offer price. The allottee purchased the flat in an offer hence for Rs. 50 lacs, though other occupants purchased it for 30 lacs. The developer asked to pay maintenance charges at the rate of 5% on Rs. 50 lacs, which was duly paid by allottee. Allottee filed appeal to MP Rera that already 20 lacs was being extra paid by him, hence maintenance charges should be refunded with interest.

Decision: **MP Rera** decided that maintenance charges should be levied on basic selling price, which was 30 lacs in the case. Hence, amount should be refunded to allottee with due interest.

#### **PUNJAB RERA**

##### **Composite Web Maintenance Fee**

The authority had earlier issued order on levying of RERA online convenience fee on the promoters/real estate agent vide Endst. No.RERA-2018/4958 dated 11.06.2018. The said convenience fee has been decided in exercise of the power vested under para 33 of the Punjab Real Estate regulation Authority (General) Regulation, 2017.

The matter has been further reviewed considering practical convenience to the promoter and agents and it has been decided by the Authority that instead of taking the said fee annually at the beginning of each financial year, it will now be taken for the entire duration of the validity of the Registration Certificate, at the time of registration, as tabulated below,



Sr. No.	Type of transaction	Duration of chargeability of fee at the time of registration	Composite web maintenance fee
1	Real Estate agents at the time of application for Registration or Renewal	5 Years	Rs. 50000 for 5 year (@ Rs.1000 P.A)
2	Promoters of New/Ongoing Projects at the time of application for registration or extension	From the date of registration, till the date of completion of project	@ Rs.5000/- P.A for each financial year or part thereof

All projects and Real estate agents which have already been registered with the authority as on date, shall be liable to pay the Composite Web Maintenance Fee for the entire period of validity of Registration Certificate as above, excluding the

web maintenance fee already paid by the Promoter/Real Estate agent.

The above fee will be payable in the same mode as the payment of Registration Fee payable under the rules, under the heading "Composite Web Maintenance Fee"

The Authority accordingly calls upon all the Promoters and Real estate agents to pay the said fees on or before 31<sup>st</sup> March, 2020 and avoid any punitive action under the law.

This order is issued in suppression of earlier order no. RERA-2018/4958 published on 31-08-2018

#### **Notification No. CTP(LG)/2020-866**

In exercise of the powers conferred Under **sub-section (1) of section 72-EA of the Punjab Town Improvement Act, 1922 (Punjab Act No. 4 of 1922)**, and all the other powers enabling him in this behalf, the Governor of Punjab is pleased to notify that **the Chief Engineer, Department of Local Government**, specifically authorized in this regard by the Government shall be the **Competent authority** for issuing Completion Certificate to all projects of Improvement Trusts in the state of Punjab, initiated after coming into force of the, "The Real Estate (Regulation and Development) Act, 2016. [Source: Punjab RERA]

#### **Notification No. 02/07/2012-4LG3(P:F)/949/1**

In continuation of Notification no. 02/07/2012-4LG3(P:F)/2018 dated 27.11.2019 by which One Time Settlement policy regarding house tax and property tax was issued, and in exercise of the powers conferred by section 71 of the Punjab Municipal Act, 1911 (Punjab Act no. 3 of 1911), section 157 of the Punjab Municipal Corporation Act, 1976 ( Punjab Act No. 42 of 1976 ), and all other powers enabling him in this behalf , the Governor of Punjab is pleased to extend the date in the previous notification upto 31.03.2020 with the following conditions :

- (i) Persons who have failed to deposit the house tax or property tax, as the case may be, may deposit the principal amount in lump-sum with the rebate at the rate of ten percent of the amount by 31.03.2020.
- (ii) Persons who fail to deposit the house tax or property tax, as the case may be, by 31.03.2020, may deposit the principal amount along with penalty at the rate of ten percent thereafter, within the period of the next three months.

The persons, who still fail to deposit the due amount as above, within the period and the manner specified above, shall be liable to pay a penalty at the rate of twenty percent on the amount due along with interest at the rate of eighteen percent from the date it became due till the date of its realization. [Source: Punjab RERA]

### **GUJARAT RERA**

#### **Report on Means of Finance**

The Gujarat Real Estate Regulatory Authority had, vide circular No 21/2020 dated 14.02.2020, mandated the submission of Report on Means of

Finance (RMOF) for projects promoters applying for project registration/alteration application having **estimated cost of Rs 25 crores** and above in view of the provisions of Rule 3(6) of the Gujarat RERA (General) Rules, 2017, states as under:

*"The promoter shall disclose,- estimated cost of real estate project as envisaged by the promoter by bifurcating the same into the market value of the land/ lease charges (as determined by the Government Approved Valuer), cost of construction, other costs, interest, taxes, cess, development and other charges and all other charges/cost in relation to the project in two stages, i.e. before the application is made to the Authority for registration of the real estate project and subsequent to the grant of the registration; the means of financing the real estate project along with the cost already incurred and paid by the promoter out of the estimated cost of the real estate project duly certified and signed by the chartered accountant;"*

A guidance has been now issued by the GujRERA Authority namely **Guidance-4** on 16.03.2020 which perceives that the Report on Means of Finance for Real Estate project is an essential tool for project planning and execution, which makes the promoter aware of overall financial requirements and challenges of funding, liquidity, refinancing, etc. and RMOF also empowers the promoter by making him aware of various options available to him for ensuring necessary resources for project execution at project planning stage itself.

#### **Guidance for Certifying Report on Means of Finance**

##### 1. Standard on Assurance Engagements 3400:

The Statement should be duly certified by Chartered Accountant as per "Report on Examination of Prospective Financial Information" issued by the Chartered Accountant in accordance with the "Standard on Assurance Engagements 3400 (SAE 3400)". Professionals are expected to carry out their assignments in full compliance with the standards set out by the ICAI.

##### 2. Estimate of Cash Outflows:

Estimated project costs mentioned in RMOF should be in sync with various Estimated Project Costs shown in the Form – 3. Land Cost & Development cost related to Construction activities, payments to statutory authorities, etc. provided in means of finance should be within the Project end date declared in Form-B. All these costs have to be bifurcated in Pre-RERA Registration cost and prospective cost on quarterly basis.

##### a) Land Cost

Payment of Land cost has to be in accordance with legal documentation (e.g. payment terms of Development Agreement/purchase agreement of land, etc).

##### b) Development Cost

Chartered Accountant shall ensure that the Promoter has to plan and plot start date and end date for various activities for Block wise construction and development of common amenities. Computation of development cost and

onsite overheads shall have to be based on the construction schedule, bill of material and bill of quantity and other base information.

c) Interest Cost and Repayment of Borrowed funds  
Computation of Interest cost has to be aligned with borrowing plan of the promoter. Cash outflows on repayment of borrowed funds has to be in accordance with the borrowing plan and/or contractual obligation of the promoter in case of institutional borrowings.

d) Other Cost (Not forming part of Form - 3 Estimated Cost)

Advertisement, Marketing, Administrative and other costs which do not form part of Estimated Cost (Form-3) of real estate project, but are essential for real estate business, should be reported in Means of Finance under this head.

### 3. Estimate of Cash Inflows:

Veracity of the sources of the fund utilized for financing the project till the date of verification of books of account should be verified.

a) Promoter's Capital

Computation of promoter contributions be made considering Promoter's capacity to infuse capital assessed with supporting documents like Equity capital contribution, availability of reserves & surplus along with composition of liquid and bankable assets reflecting the solvency of the promoter/entity.

b) Receipts from allottees:

Chartered Accountant shall ensure that the promoter formulates the marketing and sales plan for the real estate project depicting quarterly sales and Projection of Receipts from allottees.

c) Institutional Loans

When real estate project is to be funded by institutional loan, documents reflecting promoter's line of credit and tie ups with Banks / Financial institutions should be verified by certifying Chartered Accountant before submitting the same before the Authority.

d) Other Borrowings

Other borrowing in form of contribution & support from friends and relatives by way of unsecured loans is another source of fund for execution of real estate project which may be computed considering past history of such transactions done by the promoter/entity or group.

[Source: Gujarat RERA]

## **CORPORATE LAWS & OTHER COMMERCIAL POLICIES**

### **Decisions With Respect to Statutory and Regulatory Compliance Matters Related to Corporate Affairs Taken by Finance Minister in view of COVID-19 Outbreak**

1. No additional fees shall be charged for late filing during a moratorium period from 01st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date, which will not only reduce the compliance burden, including financial burden of companies/ LLPs at

large, but also enable long-standing non-compliant companies/ LLPs to make a 'fresh start'.

2. The mandatory requirement of holding meetings of the Board of the companies within prescribed interval provided in the Companies Act (120 days), 2013, shall be extended by a period of 60 days till next two quarters i.e., till 30th September;

3. Applicability of Companies (Auditor's Report) Order, 2020 shall be made applicable from the financial year 2020-2021 instead of from 2019-2020 notified earlier. This will significantly ease the burden on companies & their auditors for the year 2019-20.

4. As per Schedule 4 to the Companies Act, 2013, Independent Directors are required to hold at least one meeting without the attendance of Non-independent directors and members of For the year 2019-20, if the IDs of a company have not been able to hold even one meeting, the same shall not be viewed as a violation.

5. Requirement to create a Deposit reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 shall be allowed to be complied with till 30th June 2020.

6. Requirement to invest 15% of debentures maturing during a particular year in specified instruments before 30th April 2020, may be done so before 30th June 2020.

7. Newly incorporated companies are required to file a declaration for Commencement of Business within 6 months of incorporation. An additional time of 6 more months shall be allowed.

8. Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the Companies Act, shall not be treated as a

9. Due to the emerging financial distress faced by most companies on account of the large-scale economic distress caused by COVID 19, it has been decided to raise the threshold of default under section 4 of the IBC 2016 to Rs 1 crore (from the existing threshold of Rs 1 lakh). This will by and large prevent triggering of insolvency proceedings against MSMEs. If the current situation continues beyond 30th of April 2020, we may consider suspending section 7, 9 and 10 of the IBC 2016 for a period of 6 months so as to stop companies at large from being forced into insolvency proceedings in such force majeure causes of default.

10. Detailed notifications/circulars in this regard shall be issued by the Ministry of Corporate Affairs separately.

### **MCA has notified further exemptions to Government Companies under Section 462 of the Companies Act 2013 by making further amendments in the original exemption notification of the MCA dated the 5th June, 2015.**

Amendment particularly in the definition of Government Company by adding an Explanation stating the "paid-up share capital" shall be construed as "total voting power", where shares



with differential voting rights have been issued. Further, the provisions of Section 188(1) shall not apply to a Government company in respect of contracts or arrangements entered into by it with any other Government company, or with Central Government or any State Government or any combination thereof. [Source- MCA]

#### **The Ministry of Corporate Affairs has issued a clarification on prosecutions initiated against Independent Directors, non-promoters and non-KMP.**

MCA has clarified that prosecution proceedings will not be initiated against independent and non-executive directors without strong evidence of their complicity in frauds committed by the companies.

[Source- MCA]

#### **Clarification for New Companies**

MCA has clarified that the New companies incorporated through SPICe+ and thereby have obtained EPFO/ESI numbers will have to file statutory returns only when they cross thresholds prescribed under the relevant Acts. [Source- MCA]

#### **MCA has notified the LLP Settlement Scheme, 2020 to give a one-time relaxation in additional fees and prosecution to defaulting LLPs thereby promoting ease of doing business.**

MCA has notified LLP Settlement Scheme, 2020 which shall come into force on 16th March 2020. The salient features of this scheme include the Reduction of additional fees from Rs. 100 per day to Rs. 10 per day subject to a maximum of Rs. 5000 per document. The scheme shall be applicable to Form 3 LLP, Form 4 LLP, Form 8 LLP, Form 11 LLP which is due for filing till 31st October 2019. [Source- MCA]

#### **The MCA vide its notification has exempted Banking Companies from the application of the provisions of Sections 5 and 6 of the Competition Act, 2002, in public interest for a period of five years from the date of publication of this notification.**

The Section 5 of the Competition Act states that the acquisition of one or more enterprises by one or more persons or merger or amalgamation of enterprises shall be a combination of such enterprises and persons or enterprises. Therefore through this notification the Banking companies are exempted from entering into a combination which causes or is likely to cause an appreciable adverse effect on competition within the relevant market in India and such a combination shall be void under section 6 of the Competition Act 2002.

[Source- MCA]

#### **MCA to allow board meetings to be held via video conference for three months**

The Corporate Affairs Ministry is set to allow companies to hold board meetings dealing with matters of high importance — including decisions on mergers, amalgamation and takeovers — through video conferencing for a period of three months, in the wake of the coronavirus outbreak.

### **MISCELLANEOUS**

#### **The Government of India has made an Order of Moratorium in respect of Yes Bank Ltd. for the period from 5th day of March 2020 and up to and inclusive of the 3rd day of April 2020.**

In order to effect a restructuring of Yes Bank Ltd., the Reserve Bank of India, has prepared a draft scheme of reconstruction. In terms of Section 45(6)(b) of the Act *ibid*, the draft scheme is placed on the website of RBI for suggestions and objections, if any from members, depositors or creditors of Yes Bank Ltd. [Source- RBI]

#### **For speedy disposal, time to file reply cut to 30 days**

For speedy disposal of cases, the District Consumer and Disputes Redressal Forums have reduced the notice period for filing reply on a consumer complaint to 30 days. Earlier, the notice period for filing the reply was more than two months. The forums substantially reduced the period to nearly 30 days in compliance with the orders of a Constitution Bench of the Supreme Court. [Source- TribuneIndia]

#### **To Minimize Paper Consumption, SC Filings to be in A4 size paper with both side printing from April 1**

The Supreme Court has issued circular stating that filings in the judicial side should be in A4 size paper with both-sides printing from April 1 onwards. This has been done with the view to "bring uniformity about use of paper and printing thereon and to minimize the consumption of paper and consequently to save the environment.

[Source- Livelaw]

#### **Decisions With Respect to Statutory and Regulatory Compliance Matters Related to Financial services Taken by Finance Minister in view of COVID-19 Outbreak**

##### 1. Relaxations for 3 months

- Debit cardholders to withdraw cash for free from any other banks' ATM for 3 months
- Waiver of minimum balance fee
- Reduced bank charges for digital trade transactions for all trade finance consumers.

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