

DIRECT TAX

News

Income Tax Department Refunded Rs. 62,361 crore to more than 20 lakh taxpayers amid COVID-19 pandemic

In pursuance to the Government's decision vide Press Note dated April 8th, 2020 to issue pending income tax refunds in order to help taxpayers in a COVID-19 pandemic situation, the Income Tax Department has issued tax refunds at a speed of 76 cases per minute from 8th April to 30th June, 2020. During this period of just 56 weekdays, the Central Board of Direct taxes (CBDT) has issued refunds in more than 20.44 lakh cases amounting to more than Rs. 62,361 crore.

[SOURCE: PIB]

Memorandum of Understanding (MoU) between CBDT and SEBI

A formal Memorandum of Understanding (MoU) was signed today between the Central Board of Direct Taxes (CBDT) and the Securities and Exchange Board of India (SEBI) for data exchange between the two organizations. The MoU will facilitate the sharing of data and information between SEBI and CBDT on an automatic and regular basis. In addition to regular exchange of data, SEBI and CBDT will also exchange with each other, on request and *suo moto* basis, any information available in their respective databases, for the purpose of carrying out their functions under various laws. The MoU marks the beginning of a new era of cooperation and synergy between SEBI and CBDT.

[SOURCE: PIB]

Memorandum of Understanding(MoU) between CBDT and MoMSME signed

A formal Memorandum of Understanding (MOU) was signed today between the Central Board of Direct Taxes (CBDT) and the Ministry of Micro, Small and Medium Enterprises, Government of India (MoMSME) for sharing of data by CBDT to MoMSME. The MoU was signed by Smt. Anu J. Singh, Principal Director General of Income Tax (Systems), CBDT and Shri. Devendra Kumar Singh, Additional Secretary & Development Commissioner, MoMSME.

The MoU will facilitate seamless sharing of certain Income-tax Return (ITR) related information by the Income Tax Department to MoMSME. This data will enable MoMSME to check and classify enterprises in Micro, Small and Medium categories as per the criteria notified in the Notification No. S.O. 2119(E) dated 26/06/2020 of MoMSME.

The MoU marks the beginning of a new era of cooperation and synergy between the CBDT and MoMSME.

[SOURCE: PIB]

CBIC & CBDT sign MoU to facilitate smoother bilateral exchange of data

A Memorandum of Understanding (MoU) was signed between the Central Board of Direct Taxes (CBDT) and the Central Board of Indirect Taxes and Customs (CBIC) today, for data exchange between the two organisations. The MoU was signed by Shri Pramod Chandra Mody, Chairman, CBDT, and Shri M. Ajit Kumar, Chairman, CBIC, in the presence of senior officers from both the organizations.

This MoU supersedes the MoU signed between CBDT and the erstwhile Central Board of Excise and Customs (CBEC) in the year 2015. Significant developments have taken place since the signing of



earlier MoU in 2015 including introduction of GST, incorporation of GSTN and change in the nomenclature of Central Board of Excise and Customs (CBEC) to Central Board of Indirect Taxes and Customs (CBIC). Changed circumstances, including advancements in technology, are duly incorporated in the MoU signed today.

This MoU will facilitate the sharing of data and information between CBDT and CBIC on an automatic and regular basis. In addition to regular exchange of data, CBDT and CBIC will also exchange with each other, on request and spontaneous basis, any information available in their respective databases which may have utility for the other organisation.

The MoU marks the beginning of a new era of cooperation and synergy between the CBDT and CBIC.

[SOURCE: PIB]

Income Tax Department carries out search and survey operations in Rajasthan, Delhi and Mumbai

The Income Tax Department carried out search and survey operations on three groups on 13.07.2020. These operations are being carried out at 20 premises in Jaipur, 6 in Kota, 8 in Delhi and 9 in Mumbai.

One of the groups covered is involved in several business activities like hotel, hydro power projects, metal and auto sectors. It is suspected to have invested unaccounted income generated from these activities into real estate.

The second group is engaged in the business of trading of silver/gold jewellery and antique silver articles and has associate enterprises in various other countries like UK, USA etc., as well as properties and bank accounts in these countries. The main allegation against the group is that a substantial part of its silver jewellery business is carried out outside the regular books of accounts. The third group is involved in hotel business. The source of investment in the same remains to be verified.

Several incriminating evidences in the form of loose papers/diaries/digital data have been found indicating trading in bullion in cash, investment of cash in properties etc. Further investigations are in process.

[SOURCE: PIB]

CBDT to start e-campaign on Voluntary Compliance of Income Tax for FY 2018-19 from 20th July, 2020

The Income Tax Department is all set to start an e-campaign on voluntary compliance of Income Tax for the convenience of taxpayers from Monday, the 20th of July, 2020. The 11 days campaign ending on 31st July, 2020 focuses on the assesseees/taxpayers who are either non-filers or have discrepancies/deficiency in their returns for the FY 2018-19.

The objective of the e-campaign is to facilitate taxpayers to validate online their tax/financial transaction information available with the I-T Department, especially for the assesseees for FY 2018-19 and promote voluntary compliance, so that they do not get into notice and scrutiny process etc.

[SOURCE: PIB]

Notifications

Notification No. 43/2020 dated 03rd July 2020.

CBDT vide Notification No. 43/2020 dated 3rd July, 2020 Mandates providing of certain information relating to cash withdrawals under section 194N in form no. 26Q. CBDT also mandates that details of interest liable to TDS under section 194A be mentioned even where tax not deducted or deducted at lower rate.

Notification No. 44/2020 dated 6th July 2020

CBDT widens the definition of infrastructure under section 10(23FE) of the Income Tax Act, 1961 to

align it with Harmonised List of Infrastructure notified by Department of Economic Affairs (DEA). This notification shall come into force from the 1st day of April, 2021 and shall be applicable for assessment year 2021-22 and subsequent assessment years.

Notification No. 45/2020 dated 7th July 2020

Tax benefit of Section 80C will be available to the Government employee if, they contribute towards Tier-II of NPS. The minimum amount of contribution to activate the specified account shall be one thousand rupees and minimum amount of subsequent contribution shall be two hundred and fifty rupees. The contribution made under this scheme shall have a lock in period of three years from the date of credit of amount to the specified account.

Notification No. 46/2020 dated 13th July 2020

The Central Government notifies, 'National Aviation Security Fee Trust' (PAN AADTN2508F), a trust established by the Central Government, in respect of the specified income arising to that trust.

Notification No. 47/2020 dated 13th July 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 notifies, 'Goa Real Estate Regulatory Authority and Telangana Real Estate Regulatory Authority, constituted by Government in exercise of powers conferred under sub-section (1) of section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a 'class of Authority' in respect of the specified income arising to that Authority. This notification shall apply to the Real Estate Regulatory Authority, mentioned above, with respect to the mentioned assessment years.

Notification No. 48/2020 dated 14th July 2020

The Central Government specifies Additional Secretary and Development Commissioner, Ministry of Micro Small and Medium Enterprises, Government of India for the purposes of the said clause.

Notification No. 49/2020 dated 17th July 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 notifies, 'Real Estate Regulatory Authority, Bihar', constituted by Government in exercise of powers conferred under sub-section (1) of section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a 'class of Authority' in respect of the specified income arising to that Authority.

Notification No. 50/2020 dated 21st July 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 notifies, 'Tamil Nadu e-Governance Agency', an agency formed by

the State Government of Tamil Nadu, in respect of the specified income arising to that Authority

Notification No. 51/2020 dated 21st July 2020

In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of Section 138 of the Income-tax Act, 1961, the Central Government specifies Joint Secretary (Farmers welfare), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, for the purposes of the said clause in connection with sharing of information regarding income-tax assesseees for identifying the eligible beneficiaries under PM-KISAN Yojana.

Notification No. 52/2020 dated 21st July 2020

In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of Section 138 of the Income-tax Act, 1961, the Central Government specifies the following bodies/agencies for the purposes of the said clause.

1. Cabinet Secretariat
2. Intelligence Bureau
3. Narcotics Control Bureau
4. National Investigation Agency

Notification No. 53/2020 dated 22nd July 2020 (Corrigendum)

In the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 33/2020 in F. No. 300196/39/2018-ITA-1 dated 23.06.2020, published in Part-II, Section 3, Sub-section (ii) of the Gazette of India vide S.O No. 2014 (E), the corrections in the English version are made.

Notification No. 54/2020 dated 24th July 2020

In exercise of the powers conferred by section 197 and 206C read with section 295 of the Income Tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the Income-tax (17th Amendment) Rules, 2020 to further amend the Income-tax Rules, 1962. These rules shall come into force with effect from the 1st day of October, 2020. Amendments / Modifications / Additions were made in Rule 31AA, 37BC, 37CA, 37I and Form 27EQ (Annexure).

Notification No. 55/2020 dated 28th July 2020

In exercise of the powers conferred by sub-section (7) of section 115UB read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the Income-tax (18th Amendment) Rules, 2020 further to amend the Income-tax Rules, 1962. These rules shall come into force on the date of their publication in the Official Gazette. Amendments / Substitutions were made in Rule 12CB, and Appendix-II, for Form No. 64C and 64D.

Notification No. 56/2020 dated 29th July 2020

In exercise of the powers conferred by sub-section (1) of section 3 of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020

(2 of 2020), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number 35/2020, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), vide number S.O. 2033(E), dated the 24th June, 2020, namely:-

- (i) in the first proviso, in clause (i), in sub-clause (a), for the words, figures and letters “the 31st day of July, 2020” the words, figures and letters “the 30th day of September, 2020” shall be substituted;
- (ii) after the second proviso, the following proviso shall be inserted, namely: -
“Provided also that for the purposes of the second proviso, in case of an individual resident in India referred to in sub-section (2) of section 207 of the Income-tax Act, 1961 (43 of 1961), the tax paid by him under section 140A of that Act within the due date (before extension) provided in that Act, shall be deemed to be the advance tax:”.

This notification shall come into force from the date of its publication in the Official Gazette.

Notification No. 57/2020 dated 30th July 2020

In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of section 138 of the Income-tax Act, 1961, the Central Government hereby specifies Director General / Secretary, Competition Commission of India for the purpose of said clause.

2. It is clarified that income-tax authority, as specified in Notification No. S.O. No. 731(E) dated 28.07.2000, shall-

- (i) furnish only relevant and precise information after forming an opinion that furnishing of such information is necessary so as to enable the above notified authority to perform its functions under the law being administered by it; and
- (ii) convey to the authority being specified vide this notification to maintain absolute confidentiality in respect of information being furnished.

Circulars

Order under section 119 of the Income Tax Act 1961 dated 10th July 2020

Processing of returns with refund claims under section 143(1) of the Income-tax Act, 1961 beyond the prescribed time limits in non-scrutiny cases-regd.

It has been brought to the notice of the Central Board of Direct Taxes (Board) that due to certain technical issues or for other reasons not attributable to the assesseees concerned, several returns for various assessment years up to the assessment year 2017-18 which were otherwise filed validly under section 139 or 142 or 119 of the Income tax Act, 1961 ('Act') could not be processed under sub-section (1) of section 143 of the Act. Consequently, intimation regarding processing of such returns could not be sent within the period of

one year from the end of the financial year in which such returns were filed as prescribed in the second proviso to sub-section (1) of section 143 of the Act. This has led to a situation "here the taxpayer is unable to get his legitimate refund in accordance with provisions of the Act, although the delay is not attributable to him.

2. To resolve the grievances of such taxpayers, Board had earlier issued instruction/orders u/s 119 of the Act from time to time relaxing the prescribed statutory time limit for processing of such validly filed returns with refund claims in non-scrutiny cases. As per the latest order dated 5th August, 2019, time frame was given till 31-12-2019 to process such returns with refund claims.

3. The matter has been re-considered by Board in view of pending taxpayers' grievances related to issue of refund. To mitigate genuine hardship being faced by the taxpayers on this issue, Board, by virtue of its powers under section 119 of the Act, hereby relaxes the time-frame prescribed in second proviso to sub-section (1) of section 143 and directs that all validly filed returns up to assessment year 2017-18 with refund claims, which could not be processed under sub-section (1) of section 143 of the Act and which have time-barred, subject to the exceptions mentioned in para below, can be processed now with prior administrative approval of Pr. CCIT/CCIT concerned and intimation of such processing under sub-section (1) of section 143 of the Act can be sent to the assessee concerned by 31.10.2020. All subsequent effects under the Act including issue or refund shall also follow as per the prescribed procedures. To ensure adequate safeguards, it has been decided that once administrative approval is accorded by the Pr.CCIT/CCIT, the Pr.CIT/CIT concerned would make a reference to the Pr.DGIT(Systems) to provide necessary enablement to the Assessing Officer on a case to case basis.

4. The relaxation accorded above shall not be applicable to the following returns:

- (a) returns selected in scrutiny,
- (b) returns remain unprocessed, where either demand is shown as payable in the return or is likely to arise after processing it:
- (c) returns remain unprocessed for any reason attributable to the assessee.

5. This may be brought to the notice of all for necessary compliance.

Circular No. 13/2020 dated 13th July 2020

One-time relaxation for Verification of tax-returns for the Assessment years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which are pending due to non-filing of ITR-V form and processing of such returns

Income Tax Returns for Assessment Years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which were uploaded electronically by the taxpayer within the time allowed under section 139 of the Act and which have remained incomplete due to non-submission of ITR-V Form for verification, are

being permitted for verification either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes as listed in para 1 above. Such verification process must be completed by 30.09.2020.

CBDT, also relaxes the time-frame for issuing the intimation as provided in second proviso to sub-section (1) of Section 143 of the Act and directs that such returns shall be processed by 31.12.2020 and intimation of processing of such returns shall be sent to the taxpayer concerned as per the laid down procedure. In refund cases, while determining the interest, provision of section 244A (2) of the Act would apply.

Circular No. 14/2020 dated 20th July 2020

Clarification in relation to notification issued under clause (v) of proviso to section 194N of the Income-tax Act, 1961 (the Act) prior to its amendment by Finance Act, 2020 (FA, 2020)-Reg.

Section 194N of the Act as inserted by Finance (No.2) Act 2019 provided for deduction of tax at source on payment made by a banking company, a cooperative society engaged in the business of banking or post office, in cash to a recipient exceeding ₹ 1 crore in aggregate during a financial year from one or more account maintained by such recipient. Clause (v) of proviso to the said section had empowered the Central Government, in consultation with the Reserve Bank of India (RBI), to exempt by way of notification in Official Gazette, persons or class of persons so that payments made to such persons or class of persons shall not be subjected to TDS under this section. Accordingly, in exercise of the said power, Central Government has issued three notifications which are as (a) Notification 68 of 2019 dated 18.09.2019, (b) Notification 70 of 2019 dated 20.09.2019 and (c) Notification 80 of 2019 dated 15.10.2019:

2. Section 194N of the Act was amended by the Finance Act, 2020 (the FA, 2020) in order to make the provisions of the said section more stringent for non ITR filers. It is to note that the clause (v) of the proviso to section 194N prior to its amendment has now become fourth proviso to the said section. Representations have been received seeking clarification regarding the validity of the above mentioned notifications in light of the amendments carried out by FA, 2020.

3. The matter has been examined by the Board and it is hereby clarified that the above mentioned three notifications shall be deemed to be issued under fourth proviso to section 194N as amended by the FA, 2020. It is further reiterated that the exemption allowed under the said notifications shall be subject to the conditions laid down therein.

Circular No. 15/2020 dated 22nd July 2020
Notification of Sovereign Wealth Fund under section 10(23FE) of the Income-tax Act, 1961

The Finance Act, 2020, inter alia, inserted clause (23FE) in section 10 of the Income-tax Act, 1961 (the Act) to provide for exemption to income of a specified person in the nature of dividend, interest or long-term capital gains arising from investment made by it in India if the investment is made in specified infrastructure business (including business notified vide Notification No 44/2020 dated 06.07.2020, i.e., Infrastructure sub-sectors mentioned in Harmonised Master List updated as on 13.08.2018) during the period from 01.04.2020 to 31.03.2024, and held for at least three years.

2. Specified person for this purpose has been defined to mean wholly owned subsidiaries of Abu Dhabi Investment Authority (ADIA), notified Sovereign Wealth Fund (SWF) and notified Pension Funds (PF), which fulfil conditions specified in the clause or to be prescribed for the PF.

3. In order to facilitate the process of notification of the SWF, the Board, in exercise of powers conferred under section 119 of the Act, hereby specifies that the SWF shall file application in the Form I in the Annexure to this circular. The Form I shall be filed with the Member (Legislation), Central Board of Direct Taxes (CBDT), Department of Revenue, Ministry of Finance, North Block, New Delhi during the financial year 2020-21 and thereafter to the Member, CBDT having supervision and control over the work of Foreign Tax and Tax Research Division.

4. Further, the SWF shall be required to file return of income along with audit report. It shall also be required to file a quarterly statement within one month from the end of the quarter electronically in Form II in respect of each investment made during the quarter in the Annexure to this circular. The Principal Director General of Income Tax/ Director General of Income Tax (Systems) shall lay down the necessary procedure for furnishing and verification of the Form II.

Case Law

Assessee is regularly dealing in scrips. The A.O. has not brought any adverse material against the assessee so as to make the additions. Hence, the additions are deleted.

SHRI RIAZ MUNSHI VERSUS THE ACIT, CIRCLE-17 (2), NEW DELHI, 2020 (3) TMI 545 - ITAT DELHI

In the present case, the assessee submitted sufficient documentary evidences before A.O. to prove genuineness of the transaction. The assessee purchased the shares through banking channel and actually got the shares transferred in his name. The purchases are supported by bank statements. The transaction of the sale have been made through Demat Account which is corroborated by contract note and other details and transaction is carried out through banking channel through stock exchange through Demat Account on which Security Transaction Tax have also been paid. A.O. merely relied upon interim

order of the SEBI to make addition against the assessee, otherwise, there were no evidence or material on record to disprove the claim of assessee. Since the interim order of the SEBI have been revoked against the assessee and M/s EBFL, therefore, nothing survives in favour of the A.O. The A.O. did not make any further investigation or enquiry into the matter and merely relied upon the interim order of the SEBI and investigation carried out by the Kolkata Wing. Considering the totality of the facts and circumstances of the case and financials of M/s EBFL the Orders of the authorities were set aside and both the additions were deleted.

Where Assessing Officer made addition under section 68 treating long term capital gain on sale of shares as not genuine, said addition was to be deleted in view of fact that Assessing Officer failed to produce any material/evidence to dislodge or controvert genuineness of conclusive documentary evidences produced by assessee in support of his claim that he was a genuine investor from past many years

ANOOP JAIN V. ASSISTANT COMMISSIONER OF INCOME-TAX, CENTRAL CIRCLE- 53(1), NEW DELHI, [2020] 114 TAXMANN.COM (DELHI-TRIB.)

SEBI has suspended trading in shares of LDPL w.e.f 28.08.2015 whereas the assessee has sold shares from May 2014 to December 2014, many months before suspension of the scrip. It is not the case of the Assessing Officer, nor there is any evidence on record to show that SEBI has declared all transactions done in scrip of LDPL prior to the suspension as null and void. It is a matter of fact that SEBI looks into irregular movements in share prices and warns investors against any such unusual increase in share price. No such warning was issued by SEBI. The Assessing Officer has failed to produce any material/evidence to dislodge or controvert the genuineness of conclusive documentary evidences produced by the assessee in support of his claim considering the fact that he is a genuine investor and is from past many years, as explained elsewhere. Surprisingly, neither the assessee nor his brokers are named as illegitimate beneficiaries to bogus long term capital gain in any of the alleged statements of the operators/broker or reports/orders of the SEBI or the Investigation Wing. In our considered view, additions made by the Assessing Officer and confirmed by the Id. CIT (A) are heavily guided by surmises, conjectures and presumptions and, therefore, have no legs to stand on.

Where assessee declared long term capital gain on sale of shares but Assessing Officer made section 68 addition in hands of assessee on basis of investigation wing report that assessee was beneficiary of accommodation entries, without conducting separate and independent enquiry, since shares were dematerialized and sales had been routed from de-mat account and

consideration had been received through banking channels, assessee had successfully discharged onus cast upon him by provisions of section 68

SMT. KARUNA GARG V. INCOME TAX OFFICER, WARD- 39(4), NEW DELHI, [2019] 109 TAXMANN.COM 403 (DELHI-TRIB.)

The Assessing officer received the investigation report of DIT (Investigation) regarding list of companies engaged in providing accommodation entries in the garb of bogus long-term capital gain. The Assessing Officer observed that the assessee was one among the beneficiaries in the list by accepting bogus long-term capital gain entries through stockbrokers and that the claim of the assessee was unverifiable and representative of introduction of assessee's unaccounted money infused in the share transaction. According to the Assessing Officer, the alleged transactions of purchase and sale of shares were not real but a sham transaction and he was of the firm belief that the assessee had entered into colourable device for avoidance of tax and the receipt was nothing but unexplained cash credit under section 68 to be taxed under section 115BBE. It was held that considering the vortex of evidences, since shares were dematerialized and sales had been routed from de-mat account and consideration had been received through banking channels, assessee had successfully discharged onus cast upon him by provisions of section 68.

Where assessee's transactions of purchase of shares in question, holding of shares for more than one year and then sale of shares through a registered share broker in a recognised stock exchange and payment of STT thereon, all were supported by documentary evidences and revenue could not point out any specific defect with regard to said documents, transactions of assessee could not be held as sham and LTCG on such transactions could not be treated as unexplained cash credit under section 68

SWATI LUTHRA V. INCOME TAX OFFICER, WARD-51(5), NEW DELHI, [2020] 115 TAXMANN.COM (DELHI- TRIBUNAL)

The assessee claimed exempt income u/s. 10 (38) of the Act in respect of long-term capital gain derived from sale of listed company's shares of companies M/s. Turbo Tech Engineering Ltd. (Rs. 20, 55, 146/-) and M/s. Esteem Bio Organic Food Processing Ltd. (Rs. 23, 00, 616/-) where securities transaction tax was duly suffered by assessee. The sales of shares were affected in the stock exchange through a registered share broker after paying STT. Accordingly, the assessee had claimed long-term capital gain as exempt under section 10 (38) in the return of income to the tune of Rs. 20,55,146/- and Rs. 23,00,616/-. The assessee during the course of assessment proceedings had submitted all the relevant evidences for purchase of shares made in cash by the assessee, along with sale contract notes together with bank statements and Demat

statements before the Id. AO evidencing the entire transaction of sale of shares being routed through regular disclosed bank statement of the assessee. It was held that assessee has entered into genuine transaction of sale and purchase of shares and therefore, satisfied the conditions of Section 10(38) of the I.T. Act. The assessee is entitled for exemption under the same provision. The addition of Rs. 41,85,762/- was deleted.

A newly registered Trust is entitled for registration under section 12AA of the Income Tax Act, 1961 (for short, the 'Act') on the basis of its objects, without any activity having been undertaken

M/S. ANANDA SOCIAL AND EDUCATIONAL TRUST VERSUS THE COMMISSIONER OF INCOME TAX & ANOTHER, 2020 TMI 1293 - SUPREME COURT

In the present case, the trust was formed as a society on 30.05.2008 and it applied for registration on 10.07.2008 i.e. within a period of about two months. No activities had been undertaken by the respondent Trust before the application was made. The Commissioner rejected the application on the sole ground that since no activities have been undertaken by the trust, it was not possible to register it, presumably because it was not possible to be satisfied about whether the activities of the trust are genuine. The Income Tax Appellate Tribunal, Delhi (for short, the 'Tribunal') reversed the orders of the Commissioner. The Revenue Department approached the High Court by way of filing an appeal. The High Court upheld the order of the Tribunal and came to the conclusion that in case of a newly registered trust even though there were no activities, it was possible to consider whether the trust can be registered under section 12AA of the Act.

It is clear that even in terms of proviso to section 2(15), which has been clarified by the Board that in such cases where principle of mutuality are applicable, registration cannot be cancelled simply by relying on the proviso to section 2(15).

ROTARY CLUB SOCIAL SECURITIES FUND BHAVNAGAR AYUSHYA CANCER HOSPITAL VERSUS DIRECTOR OF INCOME-TAX (EXEMPTION), AHMEDABAD, 2020 (4) TMI 716 - ITAT AHMEDABAD

Trust has been given a certificate from the office of the Charity Commissioner after going through the Memorandum of Association and seeing the activities of the trust and trust is meant for deceased member of Rotary Club Family Members. As Rotary Club is carrying out charitable activities for the public at large as organizing the blood donation camp giving books to poor students and doing charity for orphanage etc. Held that if their trust registration is legal and valid why Rotary Club Social Security fund cannot held to be legal and valid. In our considered opinion, rejecting the

application for registration of the Trust is amounting to miscarriage of justice. DIT(E) ought to have allowed the registration application filed to the assessee.

In the absence of the cross examination of the statement the impugned addition cannot stand SHIVLAL ZADIADDEVI JAN-KALYAN NIDHI VERSUS COMMISSIONER OF INCOME-TAX (EXEMPTION), KOLKATA, 2019 (6) TMI 857 - ITAT KOLKATA

According to Ld. CIT(E) by giving bogus donations, M/s. Shivilal Zadiadevi Jankalyan Nidhi, the assessee/appellant has indulged in money being laundered which is illegal, not genuine and not at par with the objectives of the trust. Accordingly,



considering the activities of the assessee not genuine and are not being carried out in accordance with the objectives of the society, the registration u/s. 12AA of the Act was

cancelled by the Ld. CIT(E). The learned CIT (ex) failed to provide the opportunity of cross examination as desired by the assessee. Held that in the absence of the cross examination of the statement the impugned addition cannot stand. Apart from the above, the grounds for cancellation for registration u/s 12AA(3) of the Act is that the activities of the trust should not be genuine or the activities of the trust are not being carried out in accordance with the objects of the trust. There is neither an allegation in the impugned order nor finding that any of the aforesaid conditions exist in the case of the assessee. Therefore the cancellation of registration granted to the assessee u/s 12A of the Act could not be sustained.

At the time of registration u/s 12AA, the Ld. CIT(E) has to consider the twin requirement (i) objects of the assessee society (ii) genuineness of its activity

M/S ACHARYA SHRI TULSI KALYAN KENDRA (REGD.) VERSUS CIT (EXEMPTIONS), CHANDIGARH, 2019 (2) TMI 44 - ITAT AMRITSAR

From the objects it is clear that the trust has been formed for various objects inter-alia to establish Dharmshala etc. and to establish, acquire, maintain and/or grant aid hospitals, poor care clinic etc. which covers the running Dharmshala which is called as 'Bhawan'. Even from the photographs attached with the (PB pages 110 to 116) it clearly reflects that the assessee is carrying social, spiritual and charitable activities by operating homeopathy dispensary and organizing camp for blood donation and seminars etc., hence we are not in agreement with the Ld. CIT(E) that there is no way the genuineness of the activities of the trust can be corroborated with the stated aims and objects. Held that in over all circumstances and cumulative effect, we are inclined to grant the registration to the Appellant trust and hence direct

the Ld. CIT(E) to grant the registration u/s 12AA of the Act, however, it is clarified that the Ld. CIT(E) while granting the registration, shall be at liberty to endorse the condition, if any, he find to be reasonable in accordance with law.

Section 56 (2)(vii) is not applicable where the property has been shown as Stock in Trade in the books of accounts of the assessee.

COMMISSIONER OF INCOME-TAX, CIRCLE - 6, JAIPUR. VERSUS SHRI ASHOK AGARWAL HUF AND (VICE-VERSA), 2020(8) TMI 94- ITAT JAIPUR

The term 'Property' used in sub-clause (b) of clause (vii) of sub-section (2) of section 56 is the capital asset and that too specified property as per clause (d) of explanation. The term 'capital asset' has been defined in section 2(14) of the IT Act and as per clause (a) of section 2(14) any stock-in-trade, consumable stores or raw material held for the purpose of business or profession is excluded from the definition of 'capital asset'. Thus the stock-in-trade falls in the exclusion clause of the definition of 'capital asset' provided under section 2(14) of the IT Act. Therefore, once the properties in question are not falling in the definition of 'capital asset' then the same would not fall in the definition of 'property' as per provisions of section 56(2)(vii)(b) and explanation thereto and consequently the provisions of section 56(2)(vii) would not be applicable on such transaction of plot of land being part of stock-in-trade of the assessee. In the instant case, therefore, where the agricultural land doesn't qualify as falling in the definition of capital asset, provisions of section 56(2)(vii)(b) cannot be invoked.

80IB available to land owner in case of Joint Development Agreement

THE COMMISSIONER OF INCOME TAX, BUSINESS WARD III (1), CHENNAI. VERSUS M/S ASTORIA LEATHERS, CHENNAI-32, 2020 (7) TMI 400 - MADRAS HIGH COURT

The decision of the Hon'ble Supreme Court in the case of CIT vs. *Veena Developers [reported in (2015) 93 CCH 0184 ISCC]* and others the substantial questions of law framed therein were answered to the following effect: "A plain reading of Section 80IB(10) of the Act evidently makes it clear that deduction is available in a case where an undertaking develops and builds a housing project.



The Section clearly draws the distinction between 'developing' and 'building'. In the preceding paragraphs, we have

noted the factual position as could be culled out from the joint venture agreement, which clearly shows that the assessee is the developer and M/s.ETA is the builder and mutual rights and obligations are inextricably linked with each other and undoubtedly, the project is a housing project

thereby, the assessee would be entitled to claim deduction under Section 80IB(10).

GST

News

CBIC gives nod to clear pending GST registrations under 'special drive' by July 30.

The Central Board of Indirect Taxes (CBIC) has issued directions to all field offices to clear all the pending applications by July 30 under a 'special drive'. Applications which were pending till June 30, and have not been processed till July 15, will be granted deemed approval, while applications received from July 1, 2020 onwards and that remain pending till July 28, will be deemed as approved on July 31.

[Source: Economic Times dated 18th July 2020]

Govt's 80% GST collection comes from these businesses; listed firm top GST contributor.

The public listed companies in India add the highest amount of Goods and Services tax revenues for the government. These companies comprise a mere 0.62 per cent of the overall taxpayer base, but they contributed 35.29 per cent of the GST revenues, revealed the statistical report of GST Network after three years of GST. On the flip side, the proprietorships with the maximum 80.18 per cent taxpayer base contributed 13.35 per cent of the revenue. The contributions of PSU companies also remained significant as they comprised only 0.02 per cent share in the taxpayer base but accounted for 9.12 per cent of the total GST revenue.

[Source: Financial express dated 10th July 2020]

Gujarat HC reads down Explanation to GST Rule denying Refund of 'Unutilized Input Tax' paid on 'Input Services' as part of ITC.

A two-judge bench of the Gujarat High Court has categorically held that the Explanation (a) to Rule 89(5) of the CGST Rules which denies the refund of "unutilized input tax" paid on "input services" as part of "input tax credit" accumulated on account of inverted duty structure is ultra virus the provision of Section 54(3) of the CGST Act, 2017.

The bench further noted that the net Input Tax Credit (ITC) formula used for GST refund under the inverted tax structure can cover input services as well.

It means that now a taxpayer operating in an inverted tax structure environment can get a higher refund of unutilized ITC. It would be a significant relief for industries functioning under this tax set up. These include textiles, railway locomotives & parts, handlooms, solar modules, e-commerce, steel utensils, mobiles, etc.

[Source: Taxscan dated 30th July 2020]

Exporters facing GST refund issues as govt. makes invoice matching compulsory for input tax credit.

Exporters are facing a working capital crunch as they have run into refund problems after a recent

government circular said exporters would not be eligible for input tax credit refunds in cases where they are unable to match invoices from the vendors.

For speedy processing of these refunds, the government should consider extending a relaxation on the matching of credits or an option of provisional refunds for the interim period to mitigate working capital concerns for the exporters.

The government circular specifically mentioned that input tax credit refunds should not be granted on invoices that are not reflected in GSTR-2A—a form that reflects outward supply invoices uploaded by suppliers.

[Source: Economic Times dated 15th July 2020]

Govt blocked fake GST claims worth 1,875 cr

The government has blocked fraudulent Goods and Services Tax (GST) refund claims worth Rs 1,875 crore, involving 1,377 exporters, after their addresses could not be traced.

This number of risky exporters, also, includes seven exporters accredited as star exporters," the official said requesting anonymity. The government rates export houses on the basis of their performance.

The Central Board of Indirect Taxes and Customs (CBIC) has already instructed officials to verify the correct availment of input tax credit (ITC) by such risky exporters on the basis of pre-defined risk parameters.

[Source: Hindustan times dated 19th July 2020]

Notifications

Notification No. 58/2020 – Central Tax dated 1st July 2020.

NIL details of outward supplies under section 37 in GSTR 1 can be filled through short messaging service (SMS).

"67A. Manner of furnishing of return or details of outward supplies by short messaging service facility.- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 for a



tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said

return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility."

Notification no. 59/2020 (CT) dated 13th July 2020.

The date of filing return in Form GSTR-4- Annual return to be filed by composition taxpayers for the

year 2019-20 had been extended to 15th July 2020. Now the same has further been extended from 15th July 2020 to 31st August 2020.

All registered taxpayers who have opted for composition scheme or were under composition scheme under GST, for any period during a financial year, starting from 01.04.2019, needed to file Form GSTR-4 Annual Return, annually.

Notification no. 60/2020 (CT) dated 30th July 2020.

CBIC had issued notifications earlier for providing guidelines regarding E-Invoicing under GST for certain categories of registered persons. Previously the date for implementation of E-invoicing regulation was 01.04.2020 which was postponed to 01.10.2020.

Now, vide Notification 61/2020-CT and 60/2020-CT issued yesterday, following has been prescribed w.r.t E-invoicing.

W.e.f 01.10.2020, Invoice to be prepared in INV-01 format and Invoice Reference number (IRN) to be obtained by uploading details on web portal by registered persons having aggregate turnover in a financial year exceeding Rs. 500 Cr. (Previously the limit was Rs. 100 Cr.).

SEZ Unit, Insurance & banking company, NBFC, Goods transport agency (GTA), Passenger Transport Service and Cinema entry ticket issuing person shall not be required to issue E-Invoice.

New Scheme for format of INV-01 has been prescribed vide said Notification

REAL ESTATE RAJASTHAN News

Rajasthan government lost stamp duty worth Rs 500 crore during lockdown

The state government has lost stamp duty collection of over Rs 500 crore during the lockdown from March to June as realty market transactions came to a halt. However, data shows the receipts have bounced back in June and continues to be at par with last year's collections in July. But there is still uncertainty if the department can take out its target of the current financial year, factoring in a subdued performance of the housing market. "June and the half of July could have witnessed registrations that could not happen in March, April and May. So, the recovery should not be treated as a trend.

Over 90% of the stamp duty of the government comes from real estate transactions though there are 34 documents on which it is levied. The demand is slowly coming back. It could be 3 months, 6 months or till April 2021.

RERA has extended 6 month relaxation for completion of projects keeping in view the hardship of the builders owing to Covid. This means a lot of new supply will not hit the market and accordingly, the possible transactions will not

take place as well. This is going to reduce the stamp duty collections of the department.

[Source: ECONOMIC TIMES
<https://realty.economictimes.indiatimes.com/news/regulatory/rajasthan-government-lost-stamp-duty-worth-rs-500-crore-during-lockdown/77162239>

Rajasthan government to reserve 2% of RHB flats for transgender

The Urban Development and Housing (UDH) department has released a notification on 22nd July 2020, to reserve houses for transgender whose income is less than Rs 12 lakh per annum.



The state government has decided to reserve 2% houses for transgender in all the housing schemes to be launched by Rajasthan Housing Board (RHB), development authorities and urban improvement

trusts (UITs). Earlier, reservation was also made in housing schemes for the differently abled.

Other than this, the department has also compiled the allotments done at concessional rates in the last six-month tenure of the BJP government. Across the state there were 56 land allotments made on concessional rates.

Earlier, directions were issued to the development authorities, urban improvement trusts (UITs) and Rajasthan Housing Board (RHB) to prepare a list mentioning the size of the land and date on which these plots were allotted.

As allotment at concessional rates to public and charitable institutions is considered as "primary attempt" to woo a particular section of voters or certain influential sections, the Congress government will carry out a scrutiny of such land deals.

[SOURCE: ECONOMIC TIMES]

<https://realty.economictimes.indiatimes.com/news/residential/rajasthan-government-to-reserve-2-of-rhb-flats-for-transgenders/77081185>

Rajasthan housing department likely to relax norms for MLA flats near assembly

The urban development and housing (UDH) department may soon provide relaxations to construct an eight-storey building in the periphery of the legislative assembly to accommodate 160 MLAs.

Considering the project as a special case, the 28-metre building has been proposed against the 15-metre rule mentioned in the building bylaws. Each flat will measure 3,200 square-feet and comprise four bedrooms, one drawing room, a kitchen and a one room for domestic help. As per the previous design, the JDA had proposed 176 flats. However, the idea did not go well with the committee which is overseeing the project as the open area was less. Now, 16 flats have been reduced in the project to

develop a central lawn measuring 36,000 square-metre.

In the project, the RHB has earmarked parking for 1,200 vehicles and a 12-room guest house. RHB has been appointed as the nodal agency for constructing MLA apartments.

The revenue earned after selling the land at Lal Kothi and Jalupura will be utilised to construct the apartments.

[SOURCE: ECONOMIC TIMES]

<https://realty.economictimes.indiatimes.com/news/residential/rajasthan-housing-department-likely-to-relax-norms-for-mla-flats-near-assembly/76958288>

Property survey in Jaipur after 15 years

Finally after 15 years, Jaipur city will restart its property survey to identify the buildings which need to pay urban development tax. Municipal Corporation Jaipur, have completed the tender process and the survey will begin within a week. Taxable property survey was last conducted in 2005. Lack of updated surveys has been a major economic blow to the revenue of the municipal corporation. A company is hired to complete geo-tagging of the properties. The tender is for nine years within which it will complete the survey and assessment. Along with the survey, the company will assist in tax collection as well. "The survey will geo-tag the properties and a software which is under development will be able to update all the details of each property online. The company will not wait to complete the survey before sending notices for tax to property owners. As the survey of a particular area will get completed, simultaneously notices will be served. The company will survey all the properties whether it is already registered or not. In 15 years, a residential complex may have been converted into a commercial building. So, that has to be updated. In the Walled City area, all the havelis will be surveyed as many owners have converted them into commercial buildings like hotels or home-stays. With the commercial growth in Jaipur, at present only Rs 100 crore is generated from the registered properties every year, however, this amount should have been Rs 800 crores.

[SOURCE: MAGICBRICKS]

<https://content.magicbricks.com/property-news/other-cities/property-survey-in-jaipur-after-15-years/114982.html>

Building map approval goes online in Rajasthan

Residents of urban areas of the state can obtain their building map approval online. Urban Development and Housing (UDH) minister on July 29 inaugurated the long-pending online building map application (module). Both online and offline services would be available in urban bodies. The online



system will automatically check building approval applications. The process can be completed in a short time. The fee will also be determined by the online system so that citizens will get the information about the entire fee while applying. Provision has also been made in the system for payment of fees online and offline by the applicants. Once the application is received, the citizen will get the status of their application through e-mail and SMS and details will also be available on the system. There will be transparency in the work by using the online system. Continuous monitoring shall ensure completion of the work within a stipulated period of time. At present, the online building map application has been started as a pilot project at the JMC. The application in other municipal corporations will start from August 20 and will be fully operational by September 15. In the municipal councils and municipalities, it will begin by October 31.

[SOURCE: MAGICBRICKS]

<https://content.magicbricks.com/property-news/other-cities/building-map-approval-goes-online-in-rajasthan/114960.html>

Jaipur: New norm to put pressure on infrastructure in old colonies

Rules amended to allow construction of multi-storeys up to 18 metre height in residential areas have received mixed reactions from the residents and big developers. As per the new amendments, the state government has approved construction of high-rises in colonies on 500 square metre plots. However, many believe there is still no plan for upgrading the infrastructure of these residential areas. Since large empty tracts of land are not available within the city, the cost-effective method to overcome housing shortage is allowing controlled development in old colonies. Permitting multi-stories in residential colonies without laying infrastructure adversely affects the rights of residents already settled. Moreover, it will also be a revenue loss for the state government which it earned from big developers. New multi-storey buildings should not be allowed in old residential colonies as basic amenities were developed keeping in view the number of plots and families residing such as parking. Construction affects the rights of residents. But, new guidelines have opened the way in many colonies. The policy for encouraging multi-storey buildings in a regulated manner is required. Issues relating to fire-fighting preparedness of high-rises, including width of the road, area of plots, infrastructure facilities light and ventilation would be closely monitored by the development authority for safety of people.

[SOURCE: MAGICBRICKS]

<https://content.magicbricks.com/property-news/other-cities/jaipur-new-norm-to-put-pressure-on-infrastructure-in-old-colonies/114929.html>

Jaipur to grow vertically on revised height norm for buildings

The Pink City skyline is all set to change with the Urban Development and Housing (UDH) department amending the minimum height for a building under the high-rise category from 15 metres to 18 metres. The decision to go vertical was taken at a meeting chaired by the UDH Minister which approved the draft of Building Regulations 2020. The notification will be issued soon in this regard. To grant permission for more construction in urban areas, the department has decided to designate multi-storeyed structures taller than 18 metres as high-rise buildings. Also, permission to construct an additional floor on smaller plots will be given. In the present scenario, the city requires high-density and low-rise development. A building can now be constructed up to height 18 metres (5 storeys) in a 500-sqm plot and above.

SOURCE:-MAGICBRICKS

<https://content.magicbricks.com/property-news/other-cities/jaipur-to-grow-vertically-on-revised-height-norm-for-buildings/114901.html>

Rajasthan: Schemes non-existent, 87,916 rural houses still incomplete

The construction of houses under Indira Awas Yojana (IAY) and CM-BPL schemes is still pending. While both the schemes are non-existent now, 13,239 houses under CM-BPL scheme and 14,287 houses under IAY are disputed. Appropriate action (even registering FIRs) will be taken against those beneficiaries who didn't complete building their houses despite getting the sanctioned money, those who fled with the money without utilising the same to build houses and who used the money for other purposes. These beneficiaries will be motivated and pressurized to complete building houses. Some money has also been recovered from many defaulters. ACS rural development directed the district collectors to complete building all the sanctioned houses under both the schemes by August 31. Under both the schemes, Rs 70,000 were allotted to each beneficiary to build houses. Even though these two schemes are non-existent, building of houses under these schemes is incomplete even now. Both the schemes were discontinued about 5-7 years ago.

[SOURCE: MAGICBRICKS]

<https://content.magicbricks.com/property-news/other-cities/rajasthan-schemes-non-existent-87916-rural-houses-still-incomplete/114865.html>

Rajasthan government plans to waive cess on EWS and LIG houses

Developers constructing housing schemes for Economically Weaker Sections (EWS) and Lower Income Groups (LIG) may not have to pay the labour cess. State's labour department is mulling a proposal to waive off the cess, which is 1% of the total project cost. The move will provide relief to all those buyers who will purchase plots in upcoming

schemes as cost will be reduced. The draft proposal has received a nod from the Labour Minister, and has been forwarded to the legal department. The officials at the civic bodies believe this would also encourage the developers as it would give slight relief in investment.

[SOURCE: MAGICBRICKS]

<https://content.magicbricks.com/property-news/other-cities/rajasthan-government-plans-to-waive-cess-on-ews-and-lig-houses/114788.html>

Jaipur development body extends last date to apply for EWS, LIG flats

After failing to attract buyers once again, the Jaipur Development Authority (JDA) has extended the date of accepting applications for the proposed Economic Weaker Section (EWS) and Lower Income Group (LIG) category houses in its three schemes. Now, the date of receiving applications has been extended till August 4. From June 15, JDA started accepting applications for flats which will be developed in three separate schemes — Anand Vihar (zone-12), Surya Nagar (zone-14) and Kheda Jagannathpura (zone-14). These houses will be developed under provision 4 A (I) of the Chief Minister Jan Awaas Yojana, 2015. The scheme will be developed on a Public Private Partnership (PPP) model where construction will be done by a private developer. However, the applications were being invited without finalising the developers. As there is no clarity on the scheme, investors did not show interest. In the past too, JDA made attempts to lure the developers. However, not many showed interest in the project.

SOURCE: MAGICBRICKS

<https://content.magicbricks.com/property-news/other-cities/jaipur-development-body-extends-last-date-to-apply-for-ews-lig-flats/114702.html>

Many houses still lack rainwater harvesting facilities in Jaipur

Even after a decade, the Jaipur Development Authority's (JDA) guidelines on rainwater harvesting facilities in houses seem to be only on paper. JDA had made it mandatory to construct rainwater harvesting facilities in houses built on plot sizes of 300 square metre or above. But the majority of residents have not constructed such structures. The JDA was authorised to penalise house owners who fail to comply, but officials are turning a blind eye. In nine years, neither a single inspection was carried out nor any notices issued



to defaulters. There was also a provision of seven days' imprisonment. The punitive provisions, however, have remained on paper. The town planning department approves layout plans for group housing societies and multi-storey buildings after ensuring that these would have rainwater harvesting systems.

SOURCE:-MAGICBRICKS

<https://content.magicbricks.com/property-news/other-cities/many-houses-still-lack-rainwater-harvesting-facilities-in-jaipur/114414.html>

Jaipur: Deadline to procure lease deeds for commercial spaces ends

The deadline to procure lease deeds for commercial establishments, mixed-used institutions and marriage gardens in approved schemes developed on 80 to 200 feet sector roads of Prithvi Raj Nagar (PRN) scheme on relaxed rates was over on July 15. That was the first time the department had issued lease deeds for commercial establishments. Relaxation was provided to the plot owners. However, not many took advantage of the facility due to many reasons, including cash crunch. For future, JDA has also prepared a list of 128 unapproved colonies developed on and above 80-foot road. Relaxation might be given to newly approved colonies," The civic body has set a target to issue lease deeds to all PRN plot holders till November 2020. Residents who fail to procure lease deeds on time will have to pay double development and regularisation rates for their plots.

[SOURCE:MAGICBRICKS]

<https://content.magicbricks.com/property-news/other-cities/jaipur-deadline-to-procure-lease-deeds-for-commercial-spaces-ends/114648.html>

UTTAR PRADESH

News

UP-RERA allows JAL's proposal to complete Jaypee Kalypso Court phase II

The Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) on Wednesday allowed Jaiprakash Associates' (JAL) proposal to complete the remaining four towers of Jaypee Kalypso Court (Phase II) situated in Sector 128, Noida. JAL has also been ordered to deposit an upfront amount of Rs 12 crore in a separate account. The development of Jaypee Kalypso Court started in January 2008 and comprised of 15 towers. Out of the 15 towers, four towers (7,8,11,12) having 304 units are yet to be completed. The completion date of the project had lapsed on July 1, 2018. Progressive Welfare Society, an association of allottees having 152 members (AoA) of the four towers approached the authority with request to facilitate the remaining development of their allotted units. The proposal submitted by JAL in the project says:

- Out of the total, 274 units have been sold and 30 units are yet to be sold. However, 11 units of the towers have been earmarked towards settlement with allottees of other projects of JAL in compliance of the orders of the authority.
- The sum of remaining receivables from the sold units is Rs 90.09 crore and expected receivables from 19 unsold units is about Rs 25.06 crore.

- The total cost of completion of the remaining development work of the project is Rs 103.03 crore. The project has net negative cash flow of about Rs 19 crore.
- As per the details shared by JAL and submissions made by AoA, it owes a sum of Rs 60 crore (approx.) towards the payment of penalty for delay in handing over possession to the allottees as per the terms and conditions of the agreement between the parties.
- JAL has agreed to contribute a sum of Rs 45 crore for the development of the project out of which the sum of Rs 12 crore will be deposited upfront into the separate account of the project. After taking into account the sum of Rs 45 crore the project has a positive cash flow of about Rs 26 crore.

As per JAL, the project can be completed within 18 months. With a view to facilitate the completion of the project in a time bound manner, the authority has accepted the proposal of the promoter in the interest of the allottees of the project. JAL has been ordered to open a separate account for the project, deposit all its contribution towards the project and all the money received from the allottees as per builder buyer agreements in it. This will be utilized only for the work relating to the construction and development of the project. The authority will also appoint a chartered accountant for the concurrent audit till the completion of the project. The cost there of shall be met from the receipts of the project.

[Source: ECONOMIC TIMES]

<https://realty.economicstimes.indiatimes.com/new-s/regulatory/up-rera-allows-jal-proposal-to-complete-jaypee-kalpso-court-phase-ii/77246729>

Uttar Pradesh begins process to Create Single Window clearance system for Real Estate Sector

In a positive development, Chief Minister (CM) Yogi Adityanath-led Uttar Pradesh (UP) Government has kick started the process of creating a single-window clearance system for real estate developers to give a fillip to the sector. From the land acquisition stage to the completion of a project, a builder presently has to take 70-80 different permissions from different authorities throughout the course of executing a project. This task of getting permissions alone takes up between a year to two, resulting in cost overruns. The single window system is expected to demolish the existing process and make it a significantly simple process for the



developers to receive all the necessary clearances. For the creation of the system, the UP Real Estate Regulatory Authority (RERA) last week invited the bids for selection of consultants for benchmarking

the existing policies and procedures of different authorities in the State.

As per UP RERA's chairperson Rajiv Kumar, the aim is to bring all the development authorities under one roof and ensure clearance in a time-bound manner. It will provide a one-stop integrated service to real estate promoters.

The system is also expected to check delays in approval and clearance processes by putting and tracking Service Level Agreements (SLAs) on each activity involved.

[Source: SWARAJYAMAG]

<https://swarajyamag.com/insta/up-begins-process-to-create-single-window-clearance-system-for-real-estate-sector>

HARYANA RERA

News

FIR against four officials of VSR Infratech in Gurugram

The police have registered an FIR against four officials of a real estate company for allegedly duping a homebuyer of Rs 40 lakh.

According to the police, the FIR has been registered on the Economic Offence Wing's recommendation at the SushaantLok police station. VSR Infratech's president Devendra Pandey, director Rajmal Jain, manager Renu Mehta and Neha Dhawan have been named in it.

[Source: Economic Times]

Haryana: More government officials under scanner for registry without NOCs

After tightening the noose around tehsildars and naib tehsildars of Gurgaon division, the chief minister's office (CMO) has put the role of patwaris and the revenue clerks also under the scanner.

The CMO has also asked the town and country planning (TCP) department and the urban local bodies department to prepare complete report of such shortcomings in Gurgaon and other cities.

The CMO has directed the Gurgaon divisional commissioner to provide complete details of the wrong revenue entries done by patwaris ahead of sale of land without no-objection certificates (NOCs). According to information, the revenue clerks have also changed the agriculture land into non-cultivable land and other categories so that sale deeds could be executed without any hindrance.

[Source: Economic Times]

HC issues notice to Haryana on HSIIDC plot allotment plea

The Punjab and Haryana high court has issued notice to the Haryana government on a plea filed by some landowners who had not been allotted plots by the Haryana State Industrial Infrastructure Development Corporation (HSIIDC) under land pooling scheme at industrial model township (IMT) Kharkhoda in Sonipat.

"Place on record as to why the HSIIDC and the MD, HSIIDC, have not implemented the policy,

which was brought into force in providing the converted industrial plot to the land losers, as assured in their Land Acquisition Policy dated November 9, 2010, which has come into force on August 14, 2012, vide notification. The same will have to be explained and it is made clear that until it is explained, no further plots should be sold or allotted in favour of any persons before complying the obligation, which they have undertaken to give to the land owners," ordered the HC while taking cognizance of the matter.

[Source: Economic Times]

The Haryana Real Estate Regulatory Authority, Gurugram vide Notification No. 18/RERA GGM/Regulations 2020 had issued "The Haryana Real Estate Regulatory Authority, Gurugram [Compliance of Section 4(2)(1)(D) Regulations, 2020"

In exercise of the power conferred by section 37 of the Real Estate (Regulation and Development) Act, 2016 the Haryana Real Estate Regulatory Authority, Gurugram having considered it necessary for the legitimate utilisation of funds by the promoter as per the provisions contained in third proviso to section 4(2)(1)(D) of Real Estate (Regulation and Development) Act, 2016 which provides that the promoter shall get his accounts audited within six months after the end of every financial year by a Chartered Accountant in



practice, and shall produce a statement of accounts duly certified and signed by such Chartered Accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project, the Haryana Real Estate Regulatory Authority, Gurugram has issued the directions "Directions regarding [Compliance of Section 4(2)(1)(D) of the Real Estate (Regulation and Development) Act, 2016]" vide no. 2/RERA GGM Direction 2020 as notified by Government of Haryana Gazette No. 12-2020 CHANDIGARH, TUESDAY, MARCH 24, 2020 (CHAITRA 4, 1942 SAKA) dated 2nd March, 2020.

[SOURCE: HARYANA RERA]

https://haryanarera.gov.in/regulations/COMPLIANCE_OF_SECTION_4-2-L-D_REGULATIONS_2020.pdf

Town and Country planning vide Notification no. MISC-1025/2020/13188 has issued "Relief Measures For Real Estate Due To Disruptions Caused By Covid-19 Pandemic"

The Ministry of Housing and Urban Affairs, Government of India has issued advisory dated 28.05.2020 for extension of nine months for validity and time limit for all approvals, NOCs and subsequent compliances given by State and

Central agencies for real estate projects, keeping in view the situation caused by COVID-19 outbreak and countrywide lockdown. Several representations have been received by the Government/ Department from NAREDCO for giving relief to the various colonizers/ developers in the State of Haryana to support the Real Estate Industry, which is in dire straits.

The Council of Ministers in its meeting held on 06.07.2020 has accorded the approval that moratorium for the period from 01.03.2020 to 30.09.2020, be allowed for all existing projects for the purpose of making various time-bound compliances and payments.

<http://www.egazetteharyana.gov.in/Gazette/Extra-Ordinary/2020/107-2020-Ext/10270.pdf>

GUJARAT RERA

News

Procedure for transferring or assigning promoters rights and liabilities to a third party u/s 15 of RERA Act, 2016

The Gujarat RERA Authority, in compliance with the aforesaid provision of the Act, has prescribed the process of implementation of section 15 vide order no GujRERA/Circular/23/2020 dated 20.07.2020. The link for the order is provided below:

[SOURCE: GUJARAT RERA]

<https://gujrera.gujarat.gov.in/downloaddocs/96!DNXfNKmfKNuaNKmftjFISSfhtYVTmCWlwNEtyEPRrtGxbsGgnDeaSHXkrtGxDNXfPANdHXHfPANdyeEo pUFXuNWleQargULMyEPRkVUkwNEtyeEoaiOdyE oHXHfpUFXWRFm>

Revised Form 2 Annexure (Engineer's Certificate)

Gujarat RERA Authority, vide order No GujRERA/order-39 dated 22.07.2020, has changed the format of Form 2 Annexure (Engineer's Certificate for Quality Assurance) to fill it online during submission on the platform in RERA 2.0. The revised Form 2 Annexure has been put in public domain.

Gujarat RERA Authority had passed amendment "THE GUJARAT REAL ESTATE REGULATORY AUTHORITY (GENERAL) (AMENDMENT) REGULATION, 2019" dated 31.05.2020. According to the amendment, every promoter has to submit Form 2 (Engineer's Certificate) and Form 3 (CA Certificate) in Project Registration, Alteration, Extension and QPR-Quarterly Progress Report submission of the project as substituted.

Gujarat Real Estate Regulatory Authority has already made online facility for filing of Project Registration Alteration, Extension and QPR-Quarterly Progress Report submission of the project with the promotor's login on the GujRERA portal 1.0.

Authority has decided to digitize the system for technology driven services and submission platform in RERA 2.0. The Form 2 Annexure

(Engineer's Certificate for Quality Assurance) is hence changed for digitization of the form.

All Promoters/Builders/Developers having their projects registered in Gujarat are instructed to comply using this new Form 2 Annexure in Project Registration, Alteration, Extension and QPR-Quarterly Progress report submission.

The link for Revised Form 2 Annexure along with the relevant order has been provided here for reference:

[SOURCE: GUJARAT RERA]

<https://gujrera.gujarat.gov.in/downloaddocs/16!pdAtLNYcbNTKOJpcnFspjNIEfBluwqFldTxabNTKLOcaFNBtxwCykYfeLOcagXMPwqFltFqbrtGxhDfaqVjnfBluixVhdTxatFqbifPmeLQAwqFIQRMneLQAUSUleLQAikCd>

PUNJAB RERA

Punjab Real Estate Regulatory Authority vide its Circular No. RERA/Pb./FIN/2020/No. 5326 dated 22/07/2020 had issued Public Notice on "the online submission of Quarterly Update for the Registered Real Estate Projects."

In accordance with the section 11 (1) of Real Estate (Regulation & Development) Act, 2016, read with Rule 15 (D) of Punjab State Real Estate (Regulation & Development) Rules, 2017, every promoter registered with RERA shall upload the quarterly updates for the project, on the web page of the Authority within 15 days from the expiry of each quarter.

Now, for the facility of promoters, the facility to submit the quarterly update in online mode has been activated on the website of the Authority under the tab "Manage Projects".

Therefore, all the promoters are hereby directed to upload the quarterly update of their project in online mode henceforth. Offline submission of quarterly updates will not be treated as compliance of Real Estate (Regulation & Development) Act, 2016.

[SOURCE: PUNJAB RERA]

https://rera.punjab.gov.in/pdf/circulars/20200722_PublicNoticeOSQUPRERApbFin20205326.pdf

CORPORATE LAWS & OTHER COMMERCIAL POLICIES

The Employees State Insurance Corporation (ESIC) has instructed to make bank account details of an employee and mobile number registration mandatory for registering as an insured person.

Bank account details and mobile number are now a prerequisite for an employee to be registered on an insured person. Accordingly, the Bank Details and Mobile Numbers would be required while registering a new insured person. Further, the Mobile No. should be available in the ESIC database and the number should be unique or it should be accessed through OTP.

[SOURCE: ESIC]

<https://www.esic.nic.in/attachments/circularfile/443193b8ac5cecebe33ff15efe2f5c.pdf>

The Ministry of Labour and Employment (MoLE) has issued the Draft Code on Wages (Central) Rules, 2020.

These rules shall extend to the whole of India. The Code will subsume four labour laws i.e the Minimum Wages Act, Payment of Wages Act, Payment of Bonus Act, and Equal Remuneration Act. After its enactment, all these four Acts would be repealed. The Code universalized the provision of minimum wages and timely payment of wages to all employees irrespective of the sector and wage ceiling. At present, the provisions of both Minimum Wages Act and Payment of Wages Act apply to workers below a particular wage ceiling working in Scheduled Employments only. There are 12 definitions of wages in different labour laws leading to litigation besides difficulty in implementation.

[SOURCE: E-GAZETTE]

<http://www.egazette.nic.in/WriteReadData/2020/220428.pdf>

The Consumer Protection Act, passed by the Parliament in 2019, will come into effect from July 20, 2020.

The new law aims at further protecting the interest of consumers and strengthening the mandate of consumer courts to take action against errant manufacturers, distributors, and sellers. The law will allow consumers to file complaints related to services or products at the consumer courts based in their district or state. The Act increases the amount of compensation for consumers, while also making the punishment for errant sellers and producers more stringent. The limitation period for filing of an appeal to the State Commission is increased from 30 days to 45 days while retaining the power to condone the delay.

[SOURCE: E-GAZETTE]

<http://www.egazette.nic.in/WriteReadData/2020/220546.pdf>

Ministry of corporate affairs notifies investigation rules for cases against NCLT judges

The ministry of corporate affairs has notified rules for investigating complaints against judges of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) on 30th July. The rules state that if the member refuses to be examined, the judge may presume that the member suffers from the alleged physical or mental incapacity.

[SOURCE: ECONOMIC TIMES]

<https://economictimes.indiatimes.com/news/economy/policy/ministry-of-corporate-affairs-notifies-investigation-rules-against-nclt-judges/articleshow/77264429.cms>

Distressed Assets Fund - Subordinate Debt for Stressed MSMEs

The circular issued by the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE)

regarding the captioned scheme. As the credit facilities extended under the above scheme are backed by a guarantee from CGTMSE, as a special dispensation, it has been decided to permit the banks to reckon the funds infused by the promoters in their MSME units through loans availed under the captioned scheme as equity/quasi equity from the promoters for debt-equity computation.

[SOURCE: MSME]

https://msme.gov.in/sites/default/files/RBI_0.pdf

Independent Directors, the governance-guardians of the board, need to revitalise their role

The COVID-19 pandemic and the lockdown it triggered have disrupted life and normal living conditions, most notably by their impact on businesses across the globe. This unprecedented upheaval has revised the customary role of an independent director as watchdog of listed and public companies. At a time when financial markets and mutual funds are reeling under unforeseen economic pressure, independent directors will have to ensure that public stake in the company that they represent is protected while the company itself takes measures to ensure seamless continuity.

[SOURCE: ECONOMIC TIMES]

<https://economictimes.indiatimes.com/small-biz/legal/independent-directors-the-governance-guardians-of-the-board-need-to-revitalise-their-role/articleshow/76904950.cms>

Dispute as To Inheritance Of Shares Cannot Be Decided In Proceedings U/s 241/242 Of Companies Act, 2013: SC

The Supreme Court has observed that a dispute as to inheritance of shares cannot be decided in proceedings under section 241/242 of the Companies Act, 2013. Section 241 of the Companies Act deals with application to the National Company Tribunal for Relief in Cases of Oppression, etc and Section 242 deals with the power of Tribunal to deal with such applications.

[SOURCE: LIVE LAW]

<https://www.livelaw.in/top-stories/dispute-as-to-inheritance-of-shares-companies-act-159482>

MISCELLANEOUS

Multiple Choice Questions (MCQs) on Guidance Note on the Companies (Auditor's Report) Order, 2020

Institute of Chartered Accountants of India (ICAI) through its Auditing and Assurance Standards Board (AASB) has issued "Multiple Choice Questions (MCQs) on Guidance Note on the Companies (Auditor's Report) Order, 2020". The objective of this publication is to provide a supplementary resource to the Chartered Accountants on the Guidance Note on the Companies (Auditor's Report) Order, 2020. The publication contains clause-wise MCQs along with

answers on guidance given in the Guidance Note on the Companies (Auditor's Report) Order, 2020

[SOURCE: ICAI]

<https://www.icaai.org/resource/60285aasb49105.pdf>

Multiple Choice Questions (MCQs) on Engagement and Quality Control Standards (As on July 1, 2020)

AASB of ICAI has brought out "Multiple Choice Questions (MCQs) on Engagement and Quality Control Standards". The publication contains around 1200 MCQs on 46 Engagement and Quality Control Standards issued till date.

[SOURCE: ICAI]

<https://www.icaai.org/resource/60118aasb48979-b.pdf>

Compendium of Auditing Guidance Issued by Auditing and Assurance Standards Board on Various Aspects amid COVID-19

Institute of Chartered Accountants of India (ICAI) through its Auditing and Assurance Standards Board (AASB) has issued guidance on various aspects relating to auditing covering aspects such as going concern, physical inventory verification, auditor's reporting, subsequent events and an Auditing Advisory on COVID-19. I am happy to note that AASB has brought out this "Compendium of Auditing Guidance Issued by Auditing and Assurance Standards Board on Various Aspects amid COVID-19". The Compendium brings together various auditing guidance on COVID-19 issued by AASB till date at one place for easy reference.

[SOURCE: ICAI]

<https://www.icaai.org/resource/60119aasb48979-c.pdf>

World Bank and Government of India sign \$750 million Agreement for Emergency Response Programme for Micro, Small, and Medium Enterprises



The World Bank and the Government of India today signed the \$750 million agreement for the MSME Emergency Response Programme to support increased flow of

finance into the hands of micro, small, and medium enterprises (MSMEs), severely impacted by the COVID-19 crisis. The World Bank's MSME Emergency Response Programme will address the immediate liquidity and credit needs of some 1.5 million viable MSMEs to help them withstand the impact of the current shock and protect millions of jobs. This is the first step among a broader set of reforms that are needed to propel the MSME sector over time. The \$750 million loan from the International Bank for Reconstruction and Development (IBRD), has a maturity of 19 years including a 5-year grace period.

[SOURCE: PIB]

Finance Minister holds review meeting on Special Window for Stressed Residential Projects to boost investment in the Real Estate Sector. Rs8767 crore approved for 81 projects;enable the completion of almost 60,000 homes across India. Activation of construction sites by the Special Window would provide employment opportunities for various skilled and semi-skilled labourers

Union Minister for Finance & Corporate Affairs, Smt. Nirmala Sitharaman, reviewed the performance of **Special Window for Affordable and Mid Income Housing (SWAMIH)** with Secretaries of Ministries of Finance and senior management team of the State Bank of India, SBI Capital Markets Limited and SBICAPS Ventures Limited (SVL).The fund has so far approved 81 projects with an investment of Rs 8767 crore.

The SWAMIH Investment Fund I has progressed from a policy announcement to an operational initiative on the ground. It has approved 81 projects that will enable the completion of almost 60,000 homes across India. These projects are spread across a mix of markets including large cities such as NCR, MMR, Bengaluru, Chennai, Pune and also Tier 2 locations including Karnal, Panipat, Lucknow, Surat, Dehradun, Kota, Nagpur, Jaipur, Nashik, Vizag, Chandigarh etc. (Annexure 1). Amongst these projects, investments in 18 projects have been given final clearance and disbursement is at various stages across 7 residential projects(Annexure 2). Applications from 353 stressed projects are under examination for provision of assistance. It was also highlighted that activation of these construction sites by the Special Window would provide employment opportunities for various skilled and semi-skilled labourers.

[SOURCE: PIB]

ABOUT SRNG ADVISORS LLP

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