

SRNG Connect is a monthly newsletter by SRNG Advisors LLP covering News, Updates, Notifications, Circulars, Judgments related to various laws like Income Tax, Goods and Services Tax, Real Estate (Regulation and Development) Act, RBI, SEBI, Corporate Laws, Code of Civil Procedure, Code of Criminal Procedure, Prevention of Money Laundering Act etc.

An endeavour has been made to keep the fellow professionals updated on the latest happenings & updates under various commercial laws which have day to day relevance.

The present issue apart from covering updates under various laws highlights certain important judgments under Income Tax, GST, RERA & PMLA and also covers a remarkable order passed by Government of Rajasthan with respect to stamp duty leviable on distribution of assets to partners in case of dissolution of LLP where the assets have been purchased by LLP.

The following team of Chartered Accountants, Company Secretaries and Advocates has contributed to this newsletter:

CA Harish Gupta, CA Praneti Agarwal, CA Punit Gupta, CA Archit Agarwal, Adv. Abhilasha Sharma, CA Teena Agarwal, CA Mona Rajgadia, CA Akshita Agarwal, CA Deepak Agarwal, CA Piyush Khandelwal, CA Vishaka Raitani, CS Pragya Bhandia, Adv. Imran Khan, Adv. Peeha Verma, CA Ankur Gupta, Adv Navin Yadav, Adv. Muskan Khandewal, Saloni Nogaja, Divyansh Jain, Vibhore Goel.

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DIRECT TAX



NOTIFICATIONS

Notification No. 70/2021, dated 08-06-2021
M/s Indian Institute of Technology, Bhilai
approved for the purposes of clauses (ii) and (iii)
of section 35(1)

In exercise of the powers conferred by clauses (ii) and (iii) of section 35(1), read with rules 5C and 5E, the Central Government has approved M/s Indian Institute of Technology, Bhilai (PAN: AABAI0415K) under the category of 'University, College or other institution' for Scientific Research and Research in Social Science and Statistical Research. This Notification shall be applicable from AY 2021-2022 to 2025-2026.

Notification No. 71/2021, dated 08-06-2021
Amendment in Rule 31A vide the Income-tax
(17th Amendment) Rules, 2021

Vide this notification, Rule 31A pertaining to statement of deduction of tax, Form No. 26A (Form for furnishing accountant certificate under the first proviso to of section 201(1)) and Form No. 26Q (Quarterly statement of deduction of tax in respect of payments other than salary), Form No. 27EQ and Form No. 27Q have been amended. Various new particulars have been prescribed to be furnished in the aforesaid Forms. (For more details please refer the notification.)

Notification No. 72/2021, dated 09-06-2021
'Competition Commission of India' notified u/s
10(46)

In exercise of the powers conferred by section 10(46), the Central Government has notified 'Competition Commission of India' (PAN AAAGC0012M), a Commission established under Section 7(1) of the Competition Act, 2002, in respect of the specified income and subject to conditions specified. This notification shall apply from FY 2021-2022 to 2025-2026.

Notification No. 73/2021, dated 15-06-2021
Cost Inflation Index for Financial Year 2021-22
notified

Clause (v) of Explanation to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central

Government may, by notification in the Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year. The CBDT, has vide this notification, notified Cost inflation index for Financial Year 2021-22 as 317.

Notification No. 01 of 2021, dated 22-06-2021
Compliance Check Functionality for Section
206AB & 206CCA of Income-tax Act 1961.

Section 206AB and 206CCA inserted in the Income-tax Act, 1961 (effective from 1st July 2021), imposed higher TDS/TCS rate on the "Specified Persons". Income Tax Department has also released a new functionality i.e. "Compliance Check for Section 206AB & 206CCA" to facilitate tax deductors/collectors to verify if a person is a "Specified Person" as per section 206AB & 206CCA.

Notification No. 74/2021/F.N.370142/35/2020-
TPL

Extension of time limits.

For assessment or reassessment under the Income-tax Act, the time limit for completion of such action extended from 30-06-2021 to 30-09-2021. The compliance of any action relates to intimation of Aadhaar number to the prescribed authority under sub-section (2) of section 139AA of the Income-tax Act, the time-limit for such the compliance of such action shall stand extended to the 30th day of September, 2021. (For more details please refer the detailed notification.)

Notification No. 75/2021 dated 25th June, 2021

In exercise of the powers conferred by section 3 of the Direct Tax Vivad se Vishwas Act, 2020 (3 of 2020) the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, (Department of Revenue), number 85/2020, dated the 27th October, 2020. Last date of payment of amount under Vivad se Vishwas (without additional amount) which was earlier extended to 30th June, 2021 is further extended to 31st August, 2021. Last date of payment of amount under Vivad se Vishwas (with additional amount) has been notified as 31st October, 2021.

Notification No. 31-Ad(ATDZ)/2021, dated
25-06-2021

Introduction of e-Filing Portal of the ITAT -
Reg.

New e-filing portal of the ITAT was virtually inaugurated by Shri Ravi Shankar Prasad, Hon'ble Minister for Law & Justice, Communication and Electronics & Information Technology. The portal will be introduced in a phased manner at zonal headquarters & other benches of ITAT. The

Members of the public, Advocates, Chartered Accountants and Departmental Representatives would be able to use the portal for electronically filing their Appeals, Cross Objections, Miscellaneous Applications and Stay Applications etc.

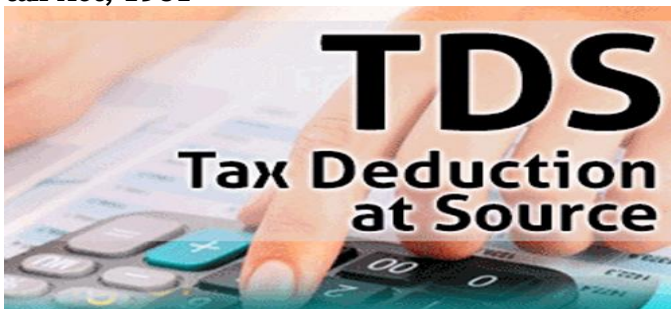
Miscellaneous Communications

F.No.225/61/2021/ITA-11 dated 10.06.2011

Guidelines for compulsory selection of returns for Complete Scrutiny during the Financial Year 2021-22 - conduct of assessment proceedings in such cases has been issued by CBDT. The exercise of selection of cases for compulsory scrutiny on the basis of the new guidelines and service of notice u/s 143(2) of the Act will have to be completed by 30.06.2021. As per the amendments brought vide Finance Act, 2021, the time limit for service of notice u/s 143(2) of the Act has been reduced to three months from the month of end of the Financial Year in which the return is filed. Without prejudice to the new guidelines, the cases which are selected for compulsory scrutiny by the International Taxation and Central Circle charges following the prescribed new guidelines, shall, as earlier, continue to be handled by these charges. For more details please refer to the detailed guidelines issued by the department.

CIRCULARS

**Circular No. 13 of 2021 dated 30th June, 2021
Guidelines under section 194Q of the Income-tax Act, 1961**



Finance Act, 2021 inserted a new section 194Q in the Income-tax Act 1961 (hereinafter referred to as "the Act") which takes effect from 1st day of July, 2021. It applies to any buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of value exceeding fifty lakh rupees in any previous year. The buyer, at the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier, is required to deduct an amount equal to 0.1 % of such sum exceeding fifty lakh rupees as income tax.

Circular No 12 of 2021 Dated 25 June, 2021

Extension of time limits of certain compliances to provide relief to taxpayers in view of the severe pandemic: reg.-

**INDIA
COVID-19
RELIEF**



- Objections to Dispute Resolution Panel (DRP) and Assessing Officer under section 144C of the Act.- Extended from 01.06.2021 to 31.08.2021.
- The Statement of Deduction of Tax-Extended from 30.06.2021 to 15.07.2021
- The Certificate of Tax Deducted at Source in Form No.16-Extended from 15.07.2021 to 31.07.2021
- The Statement of Income paid or credited in Form No. 64C-Extended from 15.07.2021 to 31.07.2021
- Section 10(23C), 12AB, 35(1)(ii)/(iia)/(iii) and 80G of the Act in Form No. 10Af Form No.10AB. for registration of Trusts/ Institutions/Research Associations etc.- Extended from 30.06.2021 to 31.08.2021
- Claiming any exemption under the provisions contained in Section 54 to 54GB-Extended from 29.09.2021 to 30.09.2021.
- Quarterly Statement in Form No. 15CC- Extended from 15.07.2021 to 31.07.2021
- Equalization Levy Statement in Form No.1 for FY 20-21- Extended from 30.06.2021 to 31.07.2021.
- Annual Statement in Form No. 3CEK- Extended from 29.06.2021 to 31.07.2021
- Uploading of the declarations in Form No. 15G/15H during the quarter ending on 30th June, 2021- Extended from 15.07.2021 to 31.08.2021.
- Compliances for claiming any exemption under the provisions contained in Section 54 to 54GB- Extended from 29.09.2021 to 30.09.2021
- Exercising of option in Form No. 34BB- Extended from 27.06.2021 to 31.07.2021.

**Circular No. 11 of 2021, dated 21-06-2021
Circular regarding use of functionality under Section 206AB and 206CCA of the Income-tax Act, 1961**

Vide this Circular, the CBDT had briefed about the logic of the new functionality "Compliance Check for Sections 206AB & 206CCA" being made available on the reporting portal (<https://report.insight.gov.in/>) of Income-tax department for tax deductors and collectors who are liable for compliance of the provisions of section 206AB and

206CCA w.e.f. 01.07.2021. Further, an Order u/s 138(1)(a)(i) has also been issued simultaneously directing DGIT(Systems) be the specified income-tax authority for furnishing information to the 'Tax Deductor/Tax Collector', having registered in the reporting portal of the Project Insight through valid TAN, to identify the 'Specified Persons' for the purposes of section 206AB and 206CCA through the aforesaid functionality. Also, the procedure to be followed for sharing of information with tax deductors/collectors for the same is laid down vide issue of circular in this regard.

CASE LAWS – INCOME TAX

Uses of word 'may' in section 144B(7)(vii) cannot absolve revenue from obligation cast upon it to consider request made for grant of personal hearing; where revenue served a show-cause notice-cum-draft assessment order on assessee proposing to vary income disclosed by assessee and thereafter without affording a personal hearing to assessee passed impugned assessment order, same was liable to be set aside

It was incumbent upon the respondent/revenue to accord a personal hearing to the petitioner despite of several requests for personal hearing by the petitioner none of which were dealt with by the respondent/revenue. The net impact of this infraction would be that, the impugned orders will have to be set aside. It is ordered accordingly.

According to us, irrespective of whether such a statutory scheme was framed or not, the system has to be both, transparent, and the persons administering it, have to remain accountable. The writ petition and the pending application are disposed of in the aforesaid term. The case papers shall stand consigned to the record.

Sanjay Aggarwal v. National Faceless Assessment Centre, Delhi
[2021] 127 taxmann.com 637 (Delhi)
HIGH COURT OF DELHI

Where Public Charitable Trust, doing educational services, gave donations to charitable and religious institutions for philanthropy only, exemption under section 11 cannot be denied merely because it was donating to 'activities other than education'

There is no bar for the charitable or religious trust to claim exemption as long as its income is applied in India for such charitable or religious purposes. As per Section 11(1)(a) exemption of 15% of income is unfettered and not subject to any conditions. Respondent-Trust is a Public Charitable Trust and doing educational services. It gave donations to charitable and religious institutions only and philanthropy had been essence of all donations. Moreover, Charity is clearly defined as relief of

poor, education, yoga, medical relief, preservation of environment, etc., Thus, public charitable trust donating to activities other than education cannot be denied exemption under section 11.

Director of Income Tax Exemptions, Chennai v. Shanmuga Arts
[2021] 128 taxmann.com 78 (Madras)
HIGH COURT OF MADRAS

As per Instruction No. 03/2017, dated 21-2-2017, which are statutory and binding on revenue, Assessing Officer has no mandate to tax cash deposit in bank account during Demonetization Scheme, 2016 if it is less than 2.5 lakhs

During period of demonetization, assessee, a housewife, deposited cash of Rs. 2,11,500 in her bank account, during course of scrutiny assessment, she was asked to explain source of deposit. She submitted that she has no business activities and she only earns income from interest on her saving. The Assessing Officer made addition of total amount deposited in bank account. On appeal, ITAT held that as per Instruction No. 03/2017, dated 21-2-2017, which are statutory and binding on revenue, Assessing Officer has no mandate to tax cash deposit in bank account during Demonetization Scheme, 2016 if it is less than 2.5 lakhs as after demonetization women left with no option but to deposit amount in banks. It was held that assessee had duly explained source of deposit as required by Section 69A. ITAT also held that this ruling may be treated as precedent in respect to proceedings arising out of cash deposit made by housewives during demonetisation, up to limit of Rs 2.5 lakhs.

Smt. Uma Agrawal v. Income Tax Officer-1(3), Gwalior
[2021] 127 taxmann.com 735 (Agra - Trib.)
ITAT AGRA BENCH

Where main object of petitioner indicated that it was in field of education and Articles of Association of petitioner did not allow an interference of profit motive but clearly indicated that surplus generated by petitioner was to be ploughed back, denial of approval to petitioner under section 10(23C)(vi) was not justified

Both proviso to Section 10 (23C)(vi) of the Income-tax Act, 1961 and section 12 AA(2) of the Income-tax Act, 1961 do not stipulate that registration/recognition approval will be automatic if the application is not disposed within the period prescribed. Merely because an educational institution generates surplus is not a ground for disqualifying it from granting approval to it.

Bosco Educational Academy (P.) Ltd. v. chief Commissioner of Income-tax-III, Chennai
[2021] 127 taxmann.com 776 (Madras)
HIGH COURT OF MADRAS

Failure to arrive at a logical conclusion in a Section 144C proceeding cannot become ruse for initiating proceedings under section 147/148 in absence of new material emerging before AO which gives AO reason to believe that assessee's income chargeable to tax had escaped assessment

As noticed by the Division Bench of this Court, in its judgement dated 31-10-2017, passed in a batch of writ petitions (the lead petition being W.P. (C) 11968/2016), concerning the petitioners herein, [pertaining to AYs 2010-2011 and 2008-2009] that, the questions relating to whether or not, the petitioners had a PE in India, had been engaging the revenue since AY 2003-2004. Undoubtedly, the respondent was attempting to regurgitate old facts by taking recourse to the provisions of Section 147/148 of the Act, which, according to us, is not permissible. There has not been proper application of mind by the Board and if a proper application had taken place, there would have been no reason to re-open the closed chapter.

Thus, for the foregoing reasons, we are of the view that the above- captioned writ petitions would have to be allowed, and consequently, the notices issued under section 148 of the Act, the underlying reasons contained in the notes and the orders disposing of the objections would have to be quashed.

*Ess Advertising (Mauritius) S.N.C. Et Compagnie vs
Assistant Commissioner of Income Tax, Circle
1(2)(2), (IT) New Delhi
[2021] 128 taxmann.com 120 (Delhi)
HIGH COURT OF DELHI*

The principles laid down squarely apply to the facts of the instant case and on the pretext that there was no conscious consideration of the pointed facts at the time of the assessment, reopening of the assessment is not legally permissible by virtue of the proviso to section 147 of the Act.

Where the issue of exemption u/s 10(26BBB) has been extensively dealt with and the assessment was ultimately completed after making proportionate disallowance of claim of exemption and there is nothing to show that there was any failure in terms of first proviso to section 147 and there was no whisper of any fresh tangible material, entire re-assessment proceedings initiated by AO is based on existing material which was already part of record and thus action u/s 147 was solely for the purpose of enhancing the disallowance of claim of exemption u/s 10(26BBB) already made in the original assessment u/s 143(3) which is impermissible and not in accordance with spirit of section 147.

*Uttarakhand Purv Sainik Kalyan Nigam Ltd. v.
Income Tax Officer, Ward-2(5), Dehradun
[2021] 127 taxmann.com 647 (Dehradun - Trib.)
IN THE ITAT, DEHRADUN BENCH*

PRESS RELEASE



**New Delhi, 5th June, 2021
New, Taxpayer-friendly e-filing Portal of the
Income Tax Department To Be Launched on
7th June, 2021**

The Income Tax Department is launching its new e-filing portal www.incometax.gov.in on 7th June, 2021. The new e-filing portal is aimed at providing taxpayer convenience and a modern, seamless experience to taxpayers. It is clarified that the new tax payment system will be launched on June 18th, 2021 after the advance tax installment date to avoid any taxpayer inconvenience. The mobile app will also be released subsequent to the initial launch of the portal, to enable taxpayers to get familiar with the various features. Familiarization with the new system may take some time, so, the Department requests the patience of all taxpayers/stakeholders for the initial period after the launch of the new portal and while other functionalities get released since this is a major transition. This is another initiative by CBDT towards providing ease of compliance to its taxpayers and other stakeholders.

**New Delhi, 14th June, 2021
Relaxation in electronic filing of Income Tax
Forms 15CA/15CB**

As per the Income-tax Act, 1961, there is a requirement to furnish Form 15CA/15CB electronically. Presently, taxpayers upload the Form 15CA, along with the Chartered Accountant Certificate in Form 15CB, wherever applicable, on the e-filing portal, before submitting the copy to the authorized dealer for any foreign remittance. In view of the difficulties reported by taxpayers in electronic filing of Income Tax Forms 15CA/15CB on the portal www.incometax.gov.in, it has been decided that taxpayers can submit the aforesaid Forms in manual format to the authorized dealers till June 30th, 2021. Authorized dealers are advised to accept such Forms till June 30th, 2021 for the purpose of foreign remittances.

**New Delhi, 16th June, 2021
Net Direct Tax collections for the Financial
Year 2021-22 have grown at over 100%**

Advance Tax collections for F.Y. 2021-22 stand at Rs. 28,780 crore which shows a growth of approximately 146% Net Direct Tax collections for the F.Y. 2021-22 have grown at a robust pace despite the disruption caused by the COVID-19 pandemic on the economy Refunds amounting to Rs. 30,731 crore have been issued in the F.Y. 2021- 22. The figures of Direct Tax collections for

the Financial Year 2021-22, as on 15.06.2021 show that net collections are at Rs.1,85,871crore compared to Rs. 92,762crore over the corresponding period of the preceding year, representing an increase of 100.4% over the collections of the preceding year.

New Delhi, 24th June, 2021

Department carried out search and seizure action on 21.06.2021 on a Raipur based hawala operator. During the course of the search, unaccounted cash amounting to approximately Rs. 6 crore has been seized. Preliminary estimates suggest that hawala transactions exceeding Rs. 100 crore may be involved. Further investigations are in progress.

New Delhi, 25th June, 2021

Government grants further extension in timelines of compliances. Also announces tax exemption for expenditure on COVID treatment and ex-gratia received on death due to Covid

Many taxpayers have received financial help from their employers and well wishers for meeting their expenses incurred for treatment of Covid-19. In order to ensure that no income tax liability arises on this account, it has been decided to provide income-tax exemption to the amount received by a taxpayer for medical treatment from employer or from any person for treatment of Covid-19 during FY 2019-20 and subsequent years. II. Employers and well-wishers of such taxpayers had extended financial assistance to their family members so that they could cope with the difficulties arisen due to the sudden loss of the earning member of their family. In order to provide relief to the family members of such taxpayer, it has been decided to provide income-tax exemption to ex-gratia payment received by family members of a person from the employer of such person or from other person on the death of the person on account of Covid-19 during FY 2019-20 and subsequent years. The exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to Rs. 10 lakh in aggregate for the amount received from any other persons.

GST



NOTIFICATIONS

Notified rationalization of late fee for delay in furnishing GSTR-1 Notification No. 20/2021 – Central Tax dated 1st June, 2021.

Government has reduces burden of late fee on small taxpayers, the upper cap of late fee is being rationalized to align late fee with tax liability/turnover of the taxpayers in case of delay in filing of GSTR1 of upcoming periods as follows:

- Rs 500 in case of Nil Tax Liability
- Rs 2000 if Annual Aggregate Turnover in preceding year is upto Rs 1.5 Crore
- Rs 5000 if Annual Aggregate Turnover in preceding year is in between Rs 1.5 Crore to Rs 5 Crore
- Rs 10000 if Annual Aggregate Turnover in preceding year is more than Rs 5 Crore

Notified rationalization of late fee for delay in furnishing GSTR-4 Notification No. 21/2021 – Central Tax dated 1st June, 2021.

Government has notified Maximum Late fees payable on account of delay in filing GSTR 4 from FY 2021-22 onwards. The fees will be as follows:

- Rs 500 in case of Nil Tax Liability
- Rs 2000 in case other than Nil Tax Liability

Notified rationalization of late fee for delay in furnishing GSTR-7 Notification No. 22/2021 – Central Tax dated 1st June, 2021.

Government has notified late fees in case of delay in filing GSTR-7. Rs. 50 per day of delay i.e. Rs. 25 each for CGST and SGST subject to maximum of Rs 2000/- i.e. Rs. 1,000 CGST + Rs 1,000 SGST will be applicable from the month of June 21.

Government departments and local authorities are exempted from generating e-invoices Notification No. 23/2021 – Central Tax dated 1st June, 2021.

Government has been amended Notification 13/2020 via notification 23/2021 to exempt government departments and local authorities from the mandatory requirement of generating e-invoices.

Time limit extended for completion of various actions, by any authority or by any person, under the GST Act as per section 168A. Notification No. 24/2021 – Central Tax dated 1st June, 2021.

Government has give relaxations under section 168A of the CGST Act, and extended the Time limit upto 30th June, 2021 for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period from 15th April, 2021 to 29th June, 2021, subject to some exceptions.

[Wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply]

Due date for filing GSTR-4 of financial year 2020-21 is further extended.

Notification No. 25/2021 – Central Tax dated 1st June, 2021.

Government has further extended due date for filing GSTR-4 for FY 2020-21 to 31.07.2021 from 31.05.2021.

**Due date for filing ITC 04 for quarter ended Mar 21 is further extended
Notification No. 26/2021 – Central Tax dated 1st June, 2021.**

Government has further extended due date for filing ITC 04 for quarter ended Mar 21 to 31.07.2021 from 31.05.2021.

**Cumulative application of rule 36(4) extended to June 21 as well. Date of reporting outward supplies using IFF is also extended
Notification No. 27/2021 – Central Tax dated 1st June, 2021.**

Implementation of rule 36(4) for availing provisional ITC for tax periods April, May and June, 2021 in the GSTR 3B shall apply cumulatively to tax period June, 2021. Reporting outward supplies through IFF facility for the month of May 21 was to be done till 28th June 21 instead of 13th June 21.

**CBIC notified waiver of penalty payable for non-compliance of provisions of Notification No. 14/2020 dated 21st March 2020
Notification No. 27/2021 – Central Tax dated 30th June, 2021.**

Govt. has waived Penalty for Non compliance with QR Code on B2C transactions from 1st December 2020 till 30th September, 2021, provided compliance with the said provision is adhered from 1st October 2021. Earlier this waiver was up to 30th June 2021. Hence, companies having turnover above 500 Cr. can initiate adding dynamic QR Code on B2C invoices from 1st October 2021. And in case taxpayers fail to comply with dynamic QR Code requirements from 1st October, penalty will be levied from 1st December 2020

**Developer promotor allowed to pay GST any time before or at the time of issuance of the completion certificate
Notification No.03/2021-Central Tax (Rate) Dated June 2nd, 2021**

The GST Council in its 43rd meeting has recommended that landowner should be allowed to utilize the input tax credit of GST charged to them by the developer in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid.

Therefore, now CBIC issued notifications specifically providing the benefit and also allowed Developer promotor to pay GST any time before or at the time of issuance of the completion certificate. Now the developer promotor is allowed to discharge tax liability before completion and the tax charged by it can be claimed as ITC by

landowner. It will now help the landowners to utilize the ITC of GST charged to them by the developer in respect of such apartments that are subsequently sold by them.

**GST rate on MRO services in respect of ships/vessels is reduced from 18% to 5%
Notification No.02/2021-Central Tax (Rate) Dated June 2nd, 2021 and Notification No.03/2021-Integrated Tax Dated June 2nd, 2021**

In the 43rd GST Council meeting, GST rate on MRO services in respect of ships/vessels was recommended to be reduced from 18% to 5%. Now, CBIC has issued Notification No.02/2021-Central Tax (Rate) Dated June 2nd, 2021 to prescribe the reduced rate of 5%.

Also, it is recommended that the Place of Supply ('POS') of MRO services should be prescribed as location of the service recipient. Now, the CBIC has issued Notification No.03/2021-Integrated Tax Dated June 2nd, 2021 to specifically provide that the POS of supply of maintenance, repair or overhaul service in respect of ships and other vessels, their engines and other components or parts supplied to a person for use in the course or furtherance of business shall be location of the recipient of service.

CIRCULARS



**Clarification issued on applicability of GST on supply of food in Anganwadis and Schools.
Circular no 149/05/2021- Dated 17th June, 2021**

It is clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b)(ii)].

Educational institutions as defined in the notification include aganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

**Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity).
Circular no 150/05/2021- Dated 17th June, 2021**

GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a

bridge on payment of annuity [entry 23A of notification No. 12/2017-Central Tax].

Entry 23A of notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.

Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination).

Circular no 151/05/2021- Dated 17th June, 2021

GST is exempt on following services:

- Services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of notification No. 12/2017-CT(R)].
- Input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards [under S. No. 66 (b) (iv) of notification No. 12/2017- CT(R)].
- GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services.

Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis.

Circular no 152/05/2021- Dated 17th June, 2021

Govt. clarifies that works contract service provided by way of construction such as of rope way shall fall under entry at sl. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18%.

GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS

Circular no 153/05/2021- Dated 17th June, 2021

In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service (entry No. 26 of notification No.

11/2017- Central Tax (Rate) dated 28.06.2017). Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them.

Circular no 154/05/2021- Dated 17th June, 2021

Govt. clarified that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under entry No. 34A.

Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System.

Circular no 155/05/2021- Dated 17th June, 2021

Govt. clarified Laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which is classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading i.e. 6%.

Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020.

Circular no 156/05/2021- Dated 21st June, 2021

Govt. clarified that it is mandatory for companies having turnover above Rs. 500 Cr. to comply with dynamic B2C QR code from 1st Dec 2020. However no penal provisions if same is not complied till 30th Jun 2021, subject to conditions Clarification with respect of applicability of dynamic Quick Response Code on B2C invoices and compliance of notification 14/2020

- Invoices issued to UIN holders shall be considered as invoice issued to unregistered user and shall comply with dynamic QR Code requirement
- Separate details of bank account & IFSC details are not required since UPI ID is linked to a bank account of the payee/person collecting money.
- Where the payment is collected by some person, authorized by the supplier, the UPI ID of such person may be provided in the Dynamic QR Code, instead of UPI ID of the supplier.
- In case of supply of services to recipient located outside India but payment is received in foreign currency and place of supply is

within India (i.e. services not considered as an export), QR code is not required since same cannot be used for payment.

- Where the invoice number is not available at the time of digital display of dynamic QR code say in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.
- In case of receipt of part payments by way of advance or adjustment using voucher or discount coupon before QR Code generation, the code may provide only the balance amount payable and details of total invoice value, cross reference of advance adjustment and remaining amount shall be provided in invoice”.

CASE LAWS/ ADVANCE RULINGS



Mere procedural delay in reversing credit in GSTR-3B will not disentitle appellant from claiming refund of CENVAT credit: Bangalore CESTAT.

Chariot International (P.) Ltd. v. Commissioner of Central Tax - [2021] 127 taxmann.com 777 (Bangalore - CESTAT)

The appellant was engaged in the manufacture and export of granite slabs and tiles. It filed refund applications for refund of cenvat credit under Rule 5 of CCR, 2004. The original authority issued show-cause notice proposing to reject the refund claims on the ground that the appellant has not debited the amount in the cenvat register. The appellant submitted that the balance of cenvat credit was carried forward in the TRAN-1 under GST but the amount claimed as refund has been debited in the GSTR-3B for the period December 2017. After following due process, the original authority sanctioned the refund.

Aggrieved by the sanctioning of the refund, the Department filed appeal before the Commissioner (Appeals) who allowed appeal filed by Department against the order sanctioning the refund granted

by the original authority. The appellant filed appeal before the CESTAT.

The Hon'ble CESTAT observed that the eligibility of the appellant to claim refund was not disputed and it was also not disputed that the appellant had debited the amount claimed in the GSTR-3B. The Tribunal has consistently held that credit reversed without being utilized considered as if credit has not been taken. Hence the credit reversed in GSTR-3B tantamount to not been taken credit. Since, the balance of cenvat credit was carried forward in the TRAN-1 under GST but appellant reversed the credit in the GSTR-3B. Since, there was only a delay in debiting the same and this delay was procedural delay and would not disentitle the appellant from claiming the refund.

Allahabad HC quashes order issued without issuing SCN and providing opportunity of being heard. Ratan Industries Limited v. State of Uttar Pradesh - [2021] 127 taxmann.com 576 (Allahabad)

The petitioner was carrying on the business of manufacture and sale of the auto parts. It submitted returns with all details as required and the amount of tax was paid after deducting the ITC. It came to know on 15-12-2019 that some orders have been passed as per DRC-07 dated 24-1-2019 by the department. It filed writ petition alleging that prior to passing of the order of demand, no show cause notice was ever served upon the petitioner and when it filed an appeal and the appeal was also dismissed as being beyond the prescribed period of limitation.

The Honorable High Court demanded a counter affidavit from department and observed that the show cause notice was sent on the wrong E-mail address. Moreover, in respect of the demand notice, only a summary of the order dated 24-1-2019 was annexed and no order giving the reasoning for levy of demand was filed in the counter affidavit. Therefore, it was clear that show cause notice was never served upon the petitioner as well as the reasons for quantification of the demand had also never been served upon the petitioner. In view thereof, it was clear that the statutory provisions as well as the principles of natural justice had been clearly violated. Therefore, the order was liable to be set aside and the writ petition was allowed.

Kerala HC permits assessee to pre-deposit amount for entertaining appeal, quashed order of rejection of appeal.

Nattakam Service Co-operative Bank Ltd. v. Superintendent of Central Tax and Central Excise, Kottayam - [2021] 127 taxmann.com 575 (Kerala)

The petitioner had filed appeal against order of Adjudicating Authority before Commissioner (Appeals). The Commissioner (Appeals) rejected appeal because of non-deposit of amount by

petitioner required for entertaining appeal per provisions of section 35F. The petitioner filed writ petition seeking relief that the Court issue a writ order or direction to revive appeal by accepting 7.5% pre-deposit and dispose of the appeal within a specified time.

It contended before the High Court that it was of the opinion that pre-deposit of tax amount as required by Section 35F of the Central Finance Act, 1994 was not mandatory but as of now it was willing to deposit the amount as required. The Honorable High Court considered the fact that the appeal is a statutory appeal and the same was only rejected because of non-deposit of the amount required for entertaining the appeal per provisions of Section 35F. Therefore, one more opportunity was to be granted to petitioner for depositing amount as required by section 35F for entertaining statutory appeal. It was also held that rejection of the appeal was quashed and set aside and the appellate authority shall consider and decide the appeal afresh in accordance with law.

Charges on delayed payment of amount towards trading of securities are taxable under GST: UP – AAR

Authority for Advance Rulings, Uttar Pradesh SPFL Securities Ltd., In re - [2021] 127 taxmann.com 571 (AAR- UTTAR PRADESH)

The applicant was engaged primarily in business of providing services of stock broking i.e. purchasing and selling of shares on behalf of clients on exchange platform by virtue of being a recognized BSE/NSE appointed stock broker. It filed an application for advance ruling to determine taxability on delayed payments charges on reimbursement of amount by client to applicant, where client failed to pay amount paid to Stock Exchanges for purchase of securities.

The Authority for Advance Ruling observed that delayed payment charges are squarely get covered under GST for purpose of taxation. Since, the applicant is regularly providing services of 'trading of securities on behalf of customers' which is a supply of service on which the applicant is admittedly paying GST. Delayed payment charges are also linked to the above services of 'Trading of securities on behalf of customers' and GST on the same shall be payable in view of section 15(2)(d) of CGST Act, 2017. Therefore, it was held that Applicant would be liable to pay GST on the delayed payment of charges which are overdue from the client towards trading of securities and reimbursed to them.

TDS to be deducted if purchase order is more than Rs. 2.5 lakhs irrespective of value of invoices raised for fulfilling order

Authority for Advance Rulings, Karnataka Udupi Nirmiti Kendra, In re - [2021] 127 taxmann.com 734 (AAR - KARNATAKA)

The applicant was a trust and involved in executing civil works contract. It sought advance ruling in respect of the interpretation of the term "a contract" for TDS applicability under section 51 of the GST Act. It also asked the question that in the absence of any contract, or contract of continuous supply, whether TDS provisions under section 51 would be applicable for every supply of goods and services and whether the single tax invoice would be considered as "a contract" or aggregate value of purchase from a vendor for the whole year be considered as a contract.

The Authority for Advance Ruling observed that as per Section 51 of GST Act, the tax deduction shall be made by the specified persons if the total value of such supply, under a contract, exceeds 2.5 lakhs. The section does not mention anything about the value of the invoice, but only refers to the total value of supply under a contract. Hence the invoice is not the criteria but the supply under a contract is criteria for determining the liability to deduct the tax at source under section 51 of the GST Act. However, if the value of the single invoice is more than Rs.2.5 lakhs, there is no doubt that the tax deduction at source is applicable under section 51 subject to other conditions.

Moreover, in case, the contract is for continuous supply of goods or services, then part supplies under the contract are covered in an invoice and in such cases, invoice would not be equated to the contract. The set of invoices issued for all the supplies made as a consequence of the contract of supply would summate to the contract and not the individual invoice. The agreement between the supplier and the recipient is of prime consideration and if it is for a continuous supply to be made in installments, then the contract would include all the part supplies made and covered under separate invoices. Similarly, if the value of supply under a single invoice does not exceed Rs.2.5 Lakhs and assuming that it is a single transaction as per the purchase order, then tax deduction at source is not applicable on that single transaction or invoice. But if it is a part supply and a part of the continuous supply as per the purchase order, then if the total value of supply as mentioned in the purchase order is more than Rs.2.5 Lakh, then the provisions of tax deduction at source would become applicable even on that invoice.

Claim of GTA credit can't be denied without considering the evidence produced by assessee: Madras HC

India Cements Ltd. v. Commissioner of CGST & Central Excise -[2021] 127 taxmann.com 563 (Madras)

The petitioner was engaged in manufacture of cements. The show cause notice was issued in respect of ISD credit and GTA credit. The adjudicating authority had dropped proceedings in respect of ISD credit. However, the remaining credits were treated as GTA credits and the

authority held against the petitioner. The same was challenged in the petition.

The petitioner pointed that the adjudicating authority called for verification report from the jurisdictional Range Officer, vide e-mail dated 21-12-2020. After receiving the same, the jurisdictional range officer sent a communication dated 29-12-2020 calling upon the petitioner to furnish the details sought for. The petitioner submitted all the relevant details to the jurisdictional Range officer. But even before receiving the petitioner's reply, the range officer informed the adjudicating authority vide e-mail dated 30-12-2020 that the noticee had not produced the called for documents for verification and that therefore, the claim of the noticee could not be verified. Therefore, the adjudicating authority chose to pass the order.

The Honorable High Court observed that there has been absolutely no delay on the part of the petitioner in responding to the communication. Since, all the sought for documents were made available and the details were also furnished but even before that, the range officer informed the adjudicating officer that there was no response received. Therefore, petition would be allowed and order was liable to be quashed and the matter to be remitted back for passing order afresh in accordance with law in the light of the observations made earlier.

Registration of dealer rightly cancelled on failure to prove E-way bill transaction details: MP HC
Om Trading Co. v. Deputy Commissioner of State Tax - [2021] 127 taxmann.com 626 (Madhya Pradesh)

The appellant was engaged in carrying on the business of selling and purchasing of Clarified Butter (Ghee), Butter and other milk products. A show cause notice was issued to the appellant by the Deputy Commissioner of State Tax Gwalior, in which it was stated that the appellant is carrying on the business only on papers and the e-way bills are downloaded but the concerned vehicles are not transporting any goods in actual. Since the appellant failed to prove his e-way transaction details, his registration was cancelled. It filed appeal but same was rejected. Therefore, it filed writ petition.

The department contended that contended that the appellant had failed to bring on record any material before the authorities to show that the bills/e-way bills which were issued. The Single Judge also dismissed the writ petition as no error found in order. It filed appeal against it.

The Honorable High Court observed that the detailed enquiry was conducted before passing the order, in which certain discrepancies were found with regard to the business of the appellant. It was found that the appellant had failed to prove e-way

bill transaction details, therefore, the registration was cancelled. A proper opportunity of hearing was afforded to the appellant. No cogent documentary evidence is available on record to justify the stand taken by the appellant. Therefore, it was held that Single Judge has rightly come to the conclusion and dismissed the writ petition and the writ appeal was also dismissed.

The inherent loss in a manufacturing process is inherent and such losses are not contemplated by Section 17(5)(h) of the CGST Act. Thus, reversal of ITC is not required
ARS Steel & Alloy International Private Limited v. State Tax Officer, 2021-VIL-484-MAD

The HC was dealing with the question as to whether the taxpayer is required to reverse proportionate Input Tax Credit (ITC) on loss arising out of its manufacturing process. The Revenue authorities demanded reversal of ITC basis Section 17(5)(h) of the Central Goods and Services Tax Act, 2017 ('CGST Act'). The provision disallows ITC in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. The HC observed that Section 17(5)(h) indicate loss of inputs that are quantifiable, and involve external factors or compulsions. A loss that is occasioned by consumption in the process of manufacture is one which is inherent to the process of manufacture itself. High Court of Madras ('HC') in the case of **ARS Steel & Alloy International Private Limited v. State Tax Officer, 2021-VIL-484-MAD**

Refund claim cannot be denied due to technical glitches on GSTN portal
Mehar Tex v. Commissioner -2021 VIL 392 MAD

The Madras High Court has held that if the petitioner is eligible for refund, he cannot be denied such refund on the ground of an error which has occurred due to a glitch in the GSTN software. In this case, due to technical glitch on the GSTN portal, the petitioner's entire refund claim for making zero rated supplies (exports), while uploading, got consolidated and figured under the head SGST only instead of being under CGST, SGST and IGST. The department had restricted the refund claim to the extent of SGST and rejected the refund amounts under the heads CGST and IGST.

No intention to evade just because validity of e-way bill not extended-
Satyam Shivam Papers Pvt. Ltd. v. Asst. Commissioner - 2021 VIL 448 TEL

Telangana High Court has held that just by non-extension of the validity of the e-way bill by the assessee-supplier or the transporter, no presumption can be drawn that there was an intention to evade tax. The Court noted that there was no material with the authorities to conclude evasion merely on account of lapsing of time mentioned in the e-way bill. The transporter could

not deliver the goods in time as got struck in a road block due to a political rally. The trolley was detained by the authorities when delivery of goods was attempted on subsequent working day.

Medicines, implants separately billed to inpatients liable to GST-

Malankara Orthodox Syrian Church Medical Mission Hospital – 2021 VIL 227 AAR

In a case involving a multi-specialty hospital providing health care services with medical professionals and also supplying medicine, implants and other supplies to their patients during their treatment as an in-patient and as outpatients, the Kerala AAR has held that the package to cover the treatment including all required medicines and other supplies for a consolidated amount would not be liable to GST. It noted that the room, medicines, implants, consumables and food supplied during the treatment of patients admitted in the hospital were naturally bundled in the ordinary course of business and the principal supply (predominant element of composite supply) was that of healthcare service. It also held that in case the medicines, implants and other items are not included in the package and are separately billed, they would attract GST at the rate applicable on each of such items.

PRESS RELEASE



Recommendations of 44th GST Council Meeting dated June 12th, 2021

The 44th GST Council met under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman through video conferencing. The Council has decided to reduce the GST rates on the specified items being used in Covid-19 relief and management till 30 September, 2021.

Major rate changes were made by way of reduction in GST rates of Testing Kits and Machines, medical grade oxygen, hand sanitizers, Testing Kits and Machines, Ventilators etc. along with several medicines such as Tocilizumab, Amphotericin B, Anti-Coagulants like Heparin, Remdesivir.

ARTICLE

Provisional Attachment under GST: Powerful, But Powerless?

Akshay Amritanshu [2021] 127 taxmann.com 670 (Article)

Section 83 of the Central Goods and Services Tax ('CGST') Act, 2017 provides that the Commissioner can provisionally attach any property, including bank account, belonging to the taxable person in order to protect the interest of the Government revenue, where the proceeding under the specified sections is pending.

An amendment has been made through the Finance Act, 2021 where the scope of the section has been widened and the power of the Commissioner to provisionally attach the property has also been increased.

However, in a recent judgement, the Hon'ble Supreme Court laid down a test to check the exercise of power of provisional attachment by the Commissioner which limit the exercise of the power under Section 83 (supra).

This Article examines the power of provisional attachment under CGST Act, analyzes the amendment brought by the Finance Act, 2021 and evaluates the status of the amendment vis-à-vis the Supreme Court judgment.

Interest on reversal of ITC

N K Gupta and Medini Aggarwal - [2021] 127 taxmann.com 652 (Article)

Section 73(1) and Section 74(1) of the CGST Act provides for recovery of Input Tax Credit ('ITC') that was "wrongly availed or utilised". Section 50 (1) of the Act prescribes that if a person is liable to pay tax under the Act but fails to pay the tax, shall be liable to pay, on his own, interest at a prescribed rate. Now the important issue arises whether there is a liability to pay interest on wrongly availed ITC if not utilized. This article, discussed this practical issue and analysed interpretation of the terms "availed" and "utilised" through the lens of various landmark decisions of erstwhile laws.

GST OFFICE MEMORANDUM

National Anti-Profitteering Authority asks GST Officers to take common consumer complaints on recent GST rate-cuts on priority

The Government has recently reduced rates of tax on several COVID-19 relief items. Therefore, the benefit of tax-rate reduction and/or Input Tax Credit should be mandatorily passed on by the suppliers to recipients of the Goods and/or Services.

In this regard, National Anti-Profitteering Authority issued memorandum and requested GST officers and all members of Committee of Anti-Profitteering to take up the complaints filed by common consumers on priority and to forward the same to the Anti-Profitteering apparatus as provide in Rule 123 of the CGST Rules, 2017.

RERA



RAJASTHAN RERA NOTIFICATIONS

Relaxation in fees for first extension of 6 months or less

On application for first extension of registration of projects for 6 months or less to obtain completion certificate, no standard fee shall be payable.

Extension fee equal to 50% of registration fee shall be payable.

In case of delayed applications upto 30.09.2021 penalty equal to 50% of registration fee and thereafter penalty equal to registration fee shall be payable.

Extension of timeline for submission of QPRs and APRs

Rajasthan RERA Authority has extended the last date to 31.07.2021 for online submission of QPRs for all quarters upto June 2021 and APRs for all earlier years without payment of delay processing charges or penalty.

Online Service of “Special Modification” for updation/correction/modification in promoter profile and project details of registered projects

The Authority had earlier introduced online service of ‘General Modification’ to update/correct/modify promoter profile and project details. Now the authority has launched online service of ‘Special Modification’ to update/correct/modify the remaining items, whereby in one application only one item can be modified on payment of fee of Rs. 5,000. Under this facility an application can be made even for change of promoter and a fee equal to sum of registration and standard fee payable on registration of a new project shall be payable.

RAJ RERA CASE LAWS



Wherein the complaint was dismissed as the complainant demanded full refund along with interest but failed to pay the balance amount and take possession

Facts: An amount of Rs. 11,88,450 was received from the Complainant for a total sale consideration of 14,51,000 by the Promoter. After discussion with the applicant an amount of Rs. 8,18,605 was transferred to the Complainant's bank account on 26th April 2019, after deducting the amount passed by broker Rs. 2,51,000 and 10% of received amount as cancellation charges.

Issue: Undue delay therefore the complainant shall be provided with full refund along with interest.

Order: That, It is evident from the facts of the case that the complainant never came forward to pay the balance amount and take possession, while the respondent was in position to deliver the possession of the unit for quite some years past. Moreover, the complainant never applied for cancellation of the unit with the respondent. Accordingly, the amount was paid and his booking was cancelled by the respondent. Complaint was dismissed.

Jagdev Singh Sharma Versus Ocean Seven Buildtech Pvt. Ltd.

Complaint no. RAJ-RERA-C-2018-2426

Wherein the complaint was dismissed as the project was not liable to be registered, as the project is not an ongoing project and therefore lies outside the jurisdiction of the Authority.

Facts: The complainant had signed the agreement for sale with the respondent and paid the total amount. And the possession was to be handed over to them within 36 months. Apart from that, several other facilities promised by the respondent like dedicated car parking, club, pool etc. Have not been provided by the respondent, in view of this, the complainant prayed for for a compensation amount and penalty to be adjusted into the last instalment.

Respondent's Argument: That the project in question is not registered with this authority because the project is not liable to be registered, as the project was not an outgoing project as they had obtained completion certificate, as a matter of abundant precaution, they had also applied to the collector, Alwar for providing the completion certificate which was duly acknowledged by the collector's office before the commencement of Act. *Issue:* Whether the project was liable to get registered.

Order: It was held that the arguments stated by the respondent were found correct and therefore it was decided that the project is not an outgoing project in terms of explanation (iv) of sub rule 5 of Rule 4 of the rules, which says that where completion certificate has been obtained from the competent authority or where all the development works have been completed and application has been filed with the competent authority

As the project in question is not an outgoing project, it is not liable to be registered with this authority and therefore, lies outside the jurisdiction of this Authority. And hence, the complaint was dismissed.

*Neeraj Khanna Versus Adinath Properties Pvt. Ltd.
Complaint no. RAJ-RERA-C-2019-2787*

MAHARASHTRA RERA

NEWS



Maharashtra RERA aims to expedite conciliation resolutions with new guidelines

The Maharashtra Real Estate Regulatory Authority (MahaRERA) on 18th May 2021 issued guidelines for functioning of the “Conciliation and Dispute Resolution Forum” that aims to resolve issues between allottees and real estate developers.

To streamline the process of hearing and disposal of the complaints referred to MahaRERA Conciliation and Disputes Resolution Forum, following procedural guidelines has been prescribed by the MahaRERA for hearing of complaints referred by MahaRERA.

- Once the complaints are referred to Conciliation Forum by MahaRERA, the office bearers of the Conciliation Forum should first scrutinize the seniority of the said complaints and thereafter keeping its seniority intact, assign/ distribute those complaints to the concerned functional Conciliation Benches. The assignment of not more than 10 complaints can be done at the initial stage.
- Once the matters are assigned to the bench, the concerned Conciliation bench shall issue notice of first hearing to the parties within a period of one week from the date of receipt of such assignment and the first hearing on such complaints should be conducted at least within 15 days. Only after disposal of the assigned complaints, next lot of 10 complaints can be assigned to the conciliation bench.
- In referred conciliation complaints all parties will be at liberty to be represented through advocates/authorized representatives, before the Conciliation Forum.
- In the referred conciliation matters, if the parties arrive at any mutual agreement, in that

event, the concerned Bench should record the said proceeding in the Roznama and should refer such complaints to MahaRERA within a period of one week together duly with signed conciliation terms. After placing such matters before the MahaRERA and only after passing final order by MahaRERA, the said complaint will be treated as closed/finally disposed of.

- If the conciliation between the parties fails, in that event, such complaints be transferred back to MahaRERA within a period of one week for taking appropriate decision on merits.

MahaRERA instructed office bearers of all benches of Conciliation Forum to follow the procedure scrupulously to ensure timely /speedy disposal of complaints assigned to them.

Maharashtra to introduce e-registration for first sale of properties from October 2021

Maharashtra revenue minister **Balasaheb Thorat** recently said that plans were afoot to make e-registration mandatory for first sale of properties for RERA-registered builders from October 2021. He quoted that

“We had initially tried it out with some Real Estate Regulatory Authority (RERA)-registered builders in the state. We will now set up a system that will ensure that all such builders can conduct online registrations from their offices in coordination with the property registration department. This will reduce footfall at the sub-registrar offices.”

The software was submitted last year to the government-notified cyber security agency for clearance. The government said that the step would create a digital infrastructure that would help developers register the sale agreements from their offices and reduce footfall at the property registration offices. During this pandemic time and associated restrictions, this initiative will be a great measure to revive the real estate market and will benefit the builders and consumers, and streamline a transparent process.”

MahaRERA plans to amend rules governing home sale agreements

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has decided to amend the rules governing sale agreements between allottees and developers to reduce the scope of litigation. In this regard Maha RERA has formed a committee to consider recommendations on two key issues – model agreements for commercial and residential apartments and plots, and drafts of allotment letters. The committee will comprise representatives of the authority, homebuyers’ and consumers body, realty developers and legal advisors headed by member Vijay Satbir Singh.



Buyer is not an allottee for violation of section 18 and 19 if he refuses to accept the allotment of a unit

The Maharashtra Real Estate Regulatory Authority on 20th May, 2021 during the hearing of a complaint dismissed the compensation petition of a developer filed under sections 18 and 19 of the RERA on the ground that the buyer is not an allottee because he refused to accept the allotment of the unit.

Developer “Shree Hari Housing Resorts and Infra” filed a complaint under section 18 and 19 of the Act seeking an amount of Rs. 14,43,39,019.50/- along with interest at the rate of 12% p.a plus a compensation of Rs. 10,00,000/- towards mental agony and legal expenses from the buyer “The Maharashtra Housing and Area Development Authority” (MHADA).

The MHADA vide its letter dated 4-12-2019 shown its willingness to purchase a plot area in the developer’s project “Hari Jyoti Park (Part-1)” but when developer requested MHADA to release the payment, MHADA vide its letter dated 05/03/2020 has informed the developer that there is no feasibility to take the said plot and therefore MHADA is not ready to purchase the said plot of the land. Aggrieved Developer filed the case before Maha RERA contended that if the MHADA denies to purchase the said plot of land then it would have to go for change in layout requiring revised permissions which may lead to huge loss.

Maha RERA observed that though complaint is filed against MHADA which is an allottee for violation of sections 18 and 19 of the RERA, but admittedly, there is neither allotment letter has been issued nor any registered ATS entered into between the parties for the said plot of land. Since buyer as refused to accept the said plot the allotment has not attained its finality and he cannot be treated as an allottee. Hence the Developer cannot seek any relief under sections 18 and 19 of the RERA as its mandates to have an agreement for sale which is not there in the present case.

*M/s. Shree Hari Housing Resorts and Infra
(Complainant) Versus Chief Officer Aurangabad
Housing and Area Development Board MHADA and
Others (Respondents)
Complaint No. CC00300000010074*

Two identical cases of delayed homes, two different verdicts : Maha RERA

Officials of MahaRERA have given two different orders concerning similar complaints of allottees in the project Emerald Isle-T7 of L&T located at Kurla, Mumbai.

In the first order passed in January 2021, MahaRERA Hon’able member B D Kapadnis directed the promoter to pay interest to six allottees for delayed possession, while in another order passed in June 2021, MahaRERA chairman Ajoy Mehta denied paying interest to the allottee.

The complaints were filed for seeking interest on delay possession from the schedule date of March 2017 till the date of handing over the actual possession.

In the first order member B D Kapadnis had directed the promoter to pay simple interest at 9% p.a. to the buyers. In the given case promoter argued that interest should not be charged on such delay and quoted section 55 of Indian contract act which read as follows :

“If, in case of a contract voidable on account of the promisor’s failure to perform his promise at the time agreed, the promisee accepts performance of such promise at any time other than that agreed, the promisee cannot claim compensation for any loss occasioned by the non-performance of the promise at the time agreed, unless, at the time of such acceptance he gives notice to the promoter of his intension to do so.”

Member B D Kapadnis stated that section 88 of RERA provides that provisions of RERA shall be in addition to, not in derogation of the provisions of any other law. Section 89 of RERA provides that provisions of the Act shall have effect notwithstanding anything inconsistent contained in any other law. In view of these provisions, section 55 of The Contract Act cannot be made applicable and it cannot override section 18 of the RERA because section 89 gives overriding effect to its provisions. Their right to claim interest for delayed possession has been conferred upon them by section 18 of RERA and it survives even after taking possession of the flats.

But in an another passed by Hon’ble Chairman Ajoy Mehta it was observed that the promoter cannot be held liable to pay interest on delay, citing that the starting line of Section 18 of the Real Estate (Regulation and Development) Act, 2016 clearly indicated that the provision shall apply only till the project is incomplete or the promoter is unable to give possession. Once construction is complete or possession given, the said provision ceases to operate and hence allottee can’t be eligible for any interest on delay possession.

MahaRERA orders ITMC Developers to pay interest for moratorium period of Covid 19.

MahaRERA in a recent case ordered to pay the interest even of the moratorium period of Covid 19 as the possession date has been lapsed way back then December 2016. Maha RERA has in 2020, had declared March 15 to September 14, 2020, as force majeure under the provisions of the Real Estate (Regulation and Development) Act to provide reprieve to a party from performing its obligations under a contract. Hence, the deadline of all under-construction projects can get extended for six months without any penalty.

Maha RERA in case of Ravindra Vengurlekar V/S ITMC Developers noted that builder had sold a flat for Rs. 1,50,80,000 with a clause in the agreement to hand over possession on or before December 2016, the commitment that was not honored by ITMC Developers. Hence allotted failed a complaint before authority asking Refund of the paid amount of Rs 1,32,70,401 along with interest payment from 01 January 2017, onwards. Promoter defended non-payment of interest by stating that the date of possession was extended to July 2018, which was communicated to the home buyers. Despite this communication, the complainant opted to continue making the payments, which is "implied consent for extension in the date of possession". Promoter further added purchaser made the last payment in September 2018, hence, the interest should be granted from October 2018 onwards and not from 2017 as claimed by the flat buyer. This interest payment should not be applicable for the moratorium period that was granted by MahaRERA on account of Covid-19 pandemic by invoking the force majeure clause.

Maha RERA opined that **"The payment of interest on the money invested by the home buyers is not a penalty, but a type of compensation for the delay"**. As the project was delayed prior to the pandemic, and the developer was unable to provide a satisfactory explanation on the project's delay. Hence, the ITMC Developers will have to pay interest from August 2018 (after accounting for six months grace period from the project's initial deadline) onwards till the actual date of possession on the amount paid at the rate of Marginal Cost Lending Rate plus 2 per cent. Builders Shout Discount, Find Buyers. Regulatory Body RERA Stays Silent

GUJRAT RERA NEWS



Builders Shout Discount, Find Buyers. Regulatory Body RERA Stays Silent

Broker Ashesh Agrawal Allegedly Defrauded Property Buyers of Crores, Raising Question Why RERA is Silent on Issue; RERA Can Penalise Developer If Found Guilty

Realty broker Ashesh Agrawal, who allegedly siphoned off crores of investors' money, is still on the run. However, there is a buzz among realtors' that how could a broker go scot-free despite the presence of Gujarat Real Estate Regulatory Authority.

Ahmedabad-based Ashesh, who is on the run for almost a month now, specialised in pre-launch of properties by offering discounted rates to buyers. He allegedly did this at the behest of builders who gave him a free run to get buyers even before their schemes were registered with RERA. A builder cannot sell a scheme until it is certified and approved by RERA.

(Source: <https://ahmedabadmirror.com/illegal-pre-launch-of-properties/81801351.html>)

MADHYA PRADESH RERA NEWS

The Customer Will Pay As Much Money As The Builder Does, After Booking, The Customers Will Not Have To Make The Rounds Of RERA

Translated (from DainikBhaskar-Bhopal, M.P.)

The more work the builder does, the more money the customer will pay. Like Maharashtra and Gujarat, Real Estate Regulator (RERA) MP is also making rules for this. In the new rule, it is being decided that how much will be the booking amount, after which how much money will have to be paid by the customer, and in which phases. In the absence of clear rules, many customers had given a huge amount at the time of booking itself. But later the builder did not start the work. All the customers who took the booking are now making rounds of RERA.

Sources associated with RERA said that the new rules will ensure that the builder has cash flow to complete the big project he has sought approval to bring. A responsible officer has been appointed to assess the financial capability of the builder. Its report will be necessary for registration of new project. According to the official sources of RERA, if the project fails, the responsibility of the said officer will also be ensured. RERA Chairman AP Srivastava said that the work of appointment of officers is going on. By the last week of this month (June 2021), the work of approving the pending project will be started.

(Source: <https://dainik-b.in/6VsP5uXVahb.>)

UP RERA NEWS

UP-RERA asks admin to e-auction ₹ 344 crore assets of defaulter developers

The Uttar Pradesh Real Estate Regulatory Authority (UP-Rera) ordered the Gautam Budh

Nagar administration to e-auction assets worth ₹ 344 crore of 32 developers who had failed to refund people in violation of the authority's directive. The money from the auction would be used to repay those who did not get their flats several years after deadline.

This is not the first time that the UPRERA has ordered such an action. Earlier, the district administration would attach and seal properties of defaulters but do not have the powers to auction them off. The UP RERA has also written to the UP government to expedite the process in this regard.

(Source: <https://www.hindustantimes.com/cities/ottahers/uprera-asks-admin-to-e-auction-344-crore-assets-of-defaulter-developers-101625076322033.html>)

Uttar Pradesh RERA to organise National Lok Adalat on July 10

Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) under the guidance of U.P. State Legal Services Authority has decided to organise the National Lok Adalat via online medium at Lucknow headquarters and regional office in Greater Noida on 10 July 2021 to resolve disputes of homebuyers. The first Lok Adalat was slated to be on 10th April 2021, but was postponed keeping in mind the effects of the second wave of Covid-19.

Anand Shukla, legal advisor, UP-RERA has been appointed as the nodal officer for organizing Lok Adalat.

Complaints filed before the authority under Section 31 of the RERA Act in which mutual agreement, conciliation is possible, or an application for agreement has been filed by a party will be taken up.

Prevailing and pending cases in front of the Conciliation Consultant of RERA in which settlement is possible on the basis of the reconciliation agreement or a party has filed an application for agreement will also be taken up.

(Source: <https://realty.economicstimes.indiatimes.com/news/regulatory/uttar-pradesh-rera-to-organise-national-lok-adalat-on-july-10/83988746>)

LEGAL

SUPREME COURT JUDGEMENTS



Dismissal of an Earlier Section 482 CrPC Petition Does Not Bar Filing of Subsequent Petition, If Facts So Justify
VINOD KUMAR IAS VS. UNION OF INDIA [WP (CrI 255/2021)]

Vinod Kumar, an IAS officer, had approached the Supreme Court with a writ petition under Article 32 of the Constitution, seeking the dismissal of about 28 charges against him. The court, led by Justice UU Lalit, said that there is no cause to hear this case under Article 32. If recommended, the petitioner may always submit relevant petitions under the Code of Criminal Procedure to have the individual criminal charges or complaints dismissed.

14 DIRECTIONS ISSUED BY SUPREME COURT TO ENSURE TIMELY EXECUTION OF DECREES (Rahul S. Shah v. Jinendra Kumar Gandhi, 2021 SCC OnLine SC 341)

- In suits relating to delivery of possession, the court must examine the parties to the suit under Order X in relation to third party interest and further exercise the power under Order XI Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.
- In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.
- After examination of parties under Order X or production of documents under Order XI or receipt of commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.
- Under Order XL Rule 1 of CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.
- The Court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.
- In a money suit, the Court must invariably resort to Order XXI Rule 11, ensuring immediate execution of decree for payment of money on oral application.
- In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree.
- The Court exercising jurisdiction under Section 47 or under Order XXI of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any

such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

- The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.
- The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A.
- Under section 60 of CPC the term "...in name of the judgment- debtor or by another person in trust for him or on his behalf" should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.
- The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.
- The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.
- The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to 32 the Court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the Executing Courts.

HIGH COURT JUDGEMENTS



Vivek Singh Jadon Son of Shri Shiv Kumar Singh vs State of Rajasthan D. B. (P.I.L.) Writ Petition No. 6486/2021.

A PIL writ petition was filed to declare journalist as front line workers, with the following prayer:-

- Issue a writ order or direction in nature thereof thereby call for the entire record of the case and may kindly direct the respondents authorities to declared unapproved journalist

as front line health workers and grant packages them benefit of Insurance Scheme and included them scheme of exgrosiya which provided Rs 50,00,000/- aid to dependent of deceased who died during service in prevention of Corona Virus and made a covid centre in press club and given preference for vaccination to journalist and their family members in the larger interest of justice.

- issue any other order or direction which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case may also passed in favour of petitioner.
- Cost of the writ petition be also awarded in favour of the petition.

The Hon'ble High Court dismissed the petition as no need of interference as the matter was strictly a policy decision.

TATA SONS PRIVATE LIMITED & ANR VS. M/S ELECTRO INTERNATIONAL AND OTHERS, (CS(COMM) 293/2021)

Delhi High Court Grants Interim Injunction To Tata Group Against Website 'Tatacliqsmart' For Having Similar Domain Name As It's E-Commerce Platform 'Tatacliq'.

The Court attempted to access the website www.tatacliqsmart.com but was unable to do so; nevertheless, the screenshots provided by the plaintiffs indicate that the website is being used to sell a variety of goods online, including those of plaintiff No. 1. Additionally, it was claimed that the defendant website was selling different TATA goods at 'throwaway rates' and that there is a possibility that the defendant was selling counterfeit products by using the term TATA.

It is therefore clear that defendant No. 1 has taken down his website solely in response to the filing of this action, and this Court concludes that the plaintiffs have established a case for the issuance of an interim injunction.

LIVING AUDIO SYSTEMS LLP V. MONIKA KANAUIA & ORS (ARBITRATION PETITION (L) NO. 11089 OF 2021)

Right to Carry On Competing Business Cannot Extend To Illicit Use of another Party's Confidential Information and Data.

The petitioner firm claimed that the employee, Kanaujia, violated a secrecy, non-disclosure, and non-compete clause in his employment contract by establishing a rival business. She subsequently disclosed Confidential Information to her employer, TAC, and another company, ITS.

According to the plaint, one Aditya Gupta of the petitioner business acknowledged in the plaint that the laptop provided to Kanaujia by the petitioner was being used for personal email, which was explicitly forbidden under the

conditions of her engagement. Furthermore, it was discovered that eight of the nine individuals listed on a list of prospective customers were all clients of the Petitioner business. As a consequence, it was claimed that an effort was made using private information to redirect the Petitioner's business to TAC, Tijare, and ITS.

MOHD SABIR VS STATE OF PUNJAB & OTHERS, (CRM-W-647-2021 IN/AND CRWP-10719-2020)

“Parole is a privilege granted by the state to the prisoners, and the same cannot be clipped for vague reasons”.

The bench of Justices Ritu Bahri and Archana Puri was hearing a plea filed by Mohammad Sabir, a murder and attempted murder prisoner seeking release to see his elderly mother.

The Hon'ble Court observed that petitioner served 9 years, 11 months, and 13 days in jail (including remission) and 4 years, 1 month, and 18 days in detention after his conviction. The custody certificate makes no reference of the petitioner's lack of good behaviour while incarcerated, throughout the trial, or during the post-conviction period. Furthermore, there is no indication that the petitioner has ever misused the parole provision.

NEWS

Supreme Court Issues Notice To Centre in Plea by PUCL :- on continued use of section 66A of IT Act.

The plea states that as on around 745 cases are still pending and active before the courts wherein the accused has been charged under section 66A of the IT Act.

The courts issued notice highlighting the continued use of Section 66A which was struck down by the courts way back in 2015.

While issuing Notices Hon'ble Court mentioned “Even if it is struck down by the Division Bench, Section 66A is still there. When police has to register a case, the Section is still there and only has a footnote that the Supreme Court has struck it down. There has to be a bracket in 66A with words 'struck down'.”

The Section is unconstitutional also on the ground that it takes within its sweep protected speech and speech that is innocent in nature and is liable therefore to be used in such a way as to have a chilling effect on free speech and would, therefore, have to be struck down on the ground of over breadth.

Adoption Under juvenile Justice Act, 2015 not restricted to Orphans and those in need of care of Protection.

The Adoption of children should not be restricted to orphans and those in need of care and protection but also regulates adoption of children from relatives and adoption by step-parent. The District Judge had rejected the application for adoption under the JJ Act, on the ground that the child in this case was neither a child in conflict with law, nor a child in need of care and protection, nor an orphan, nor a surrendered/abandoned child and therefore, provisions of the JJ Act, 2015 would not apply.

However, the Bombay High Court, Nagpur Bench, highlighted Section 56(2) of the Act which states that adoption of a child from another relative can be made as per the provisions of the Act and Adoption Regulations. Thus, an elaborate procedure is laid down for such an adoption in the enactment, the Court opined. Thus, the judgment of District Judge was overruled by the Hon'ble Court stating that the District court adopted a clearly restrictive interpretation regarding the Applicability of the JJ Act.

**PLMA
CASE LAWS**



Fairdeal Supplies Limited & anr. Versus Union of India & ors.2021 (4) TMI 282 - Calcutta High Court

Maintainability of petition - provisional attachment order lost its force with the expiry of 180 days - writ petition having been filed much beyond 180 days commencing from 20th January, 2020

Pendency of the writ petition will, however, not be an embargo on the respondents in proceeding with the complaints made under the provisions of Section 5(5) of PMLA as the same will not amount to any coercive step in terms of the provisional order of attachment.

The matter can be more effectively heard after calling for affidavits - Let affidavit-in-opposition be filed within a period of four week from date. Reply, if any, thereto be filed by two weeks thereafter.

Deepak Virendra Kochhar V. D.O.E. Through Assist. Director, Headquarter Investigation Unit, 2021 (4) TMI 279 - Bombay High Court

Seeking grant of Bail - commission of economic offence - predicate or scheduled offence - burden to prove guilty - whether, in view of amendment to Section 45 of PMLA, the twin conditions stipulated therein stands revived

post decision of Hon'ble Supreme Court in the case of Nikesh Tarachand Shah Vs. Union of India [2017 (11) TMI 1336 - SUPREME COURT]?

The question of the constitutional validity of Section 45 of PMLA was dealt with by Apex Court before amendment in the case of Nikesh Tarachand Shah. The grounds of challenge were that, Section 45 of the Act, when it imposes two further conditions before grant of bail is manifestly arbitrary, discriminatory and violative of petitioner's fundamental rights under Article 14 read with Article 21 of the Constitution. The Apex Court enumerated illustrations while examining validity of twin conditions. The first would be cases where the charge would only be of money laundering and nothing else, as would be the case where the scheduled offence in Part A has already been tried and persons charged under the scheduled offence have or have not been enlarged on bail under the Code of Criminal Procedure and thereafter convicted or acquitted.

The question is the provision which was held constitutional by Apex Court in the case of Nikesh Shah stands revived in view of Amendment as stated above to Section 45 of the Act - In view of amendment, the original sub-Section (ii) of Section 45 (1) which imposes the said twin conditions automatically stands revived and the said condition therefore remain on statute book. The original Section 45 (1) (ii) has to be inferred and treated as it still exists on the statute book and holds the field even as of today for deciding application for bail by an accused under PMLA. It was further argued that by inserting words "under this Act", the Judgment delivered by Supreme Court in Nikesh Shah has become in effective. The Court held that the Apex Court in Nikesh Shah (supra) has declared Section 45 (1) of PMLA in so far as it imposes two further conditions for release on bail to be unconstitutional as it violates Articles 14 and 21 of Constitution of India. After effecting amendment to Section 45 (1) of PMLA. The words "under this Act" are added to sub-Section (1) of Section 45 of PMLA. However, the original Section 45 (1) (ii) has not been revived or resurrected by Amending Act. Even notification dated 29.03.2018 amending Section 45 (1) of PMLA which came into effect from 19.04.2018 is silent about its retrospective applicability. Hence, contention of respondent cannot be accepted.

In the case of Nikesh Tarachand Shah as stated above the Hon'ble Supreme Court has declared Clause (ii) of sub-Section 1 of Section 45 of PML Act ultra vires Articles 14 and 21 of the Constitution. Sub-Section 2 the said decision the amendment referred to hereinabove was carried out. Clause (ii) of sub-Section 1 of Section 45 of PML Act places two conditions for release of a person accused of an offence under the Act, on bail, if a Public Prosecutor opposes the bail application, namely the Court is satisfied that there are reasonable grounds for believing that

accused is not guilty of such offence and that he is not likely to commit any offence while on bail. The question is whether substitution of the words "under this Act" in place of words punishable for term of imprisonment of more than three years under Part A of the Schedule in Section 45 of the Act, has impact of meeting with reasoning's discussed by the Supreme Court in the case of Nikesh Tarachand Shah for declaring clause (ii) of sub-Section 1 of Section 45 of the Act ultra vires.

The Adjudicating Authority had dismissed the original complaint under Section 5 (5) of the PMLA. The appeal is pending, the order is under challenge before the Appellate Tribunal and there is an order of status quo. The applicant was arrested after the period of about 18 months pursuant to registration of ECIR. Ms. Chanda Kochhar and Mr. V. N. Dhoot has been granted bail by Special Court under PMLA. The entire loan amount was repaid to ICICI bank. The applicant is in custody for more than 6 months. The transactions in question were for the period of 2009. The entire loan of ICICI Bank was repaid in 2012. Prior to arrest, applicant had appeared before respondent No.1 on several occasions. His statements were recorded and documents were tendered - The question of absconding does not arise. Considering the circumstances, further detention of the applicant is not necessary. Hence, case for grant of bail is made out. Bail application allowed.

Padmanabhan Kishore Versus Directorate Of Enforcement 2021 (4) Tmi 263 - Madras High Court

For attracting the penal provisions of the PML Act, the accused should have projected the proceeds of a crime as untainted money. Whether amount found in a car outside a person's house be considered a case of Money laundering?

In this case, the sum of ₹ 50,00,000/- as long as it was in the hands of Padmanabhan Kishore could not have been stated as a tainted money because it is not the case of the CBI in C.C.No.3 of 2013 that Padmanabhan Kishore had mobilised ₹ 50,00,000/- via a criminal activity. The sum of ₹ 50,00,000/- became the proceeds of a crime only when Andasu Ravinder accepted it as a bribe. Even before Andasu Ravinder could project the sum of ₹ 50,00,000/- as untainted money, the CBI intervened and seized the money in the car on 29.08.2011.

The prosecution of Padmanabhan Kishore under the PMLA, is misconceived - Petition allowed.

Namrata Marketing Pvt. Ltd. Newdelhi Thru Auth. Signatory Versus u.o.i. Thru Secy. Finance & Revenue Deptt. New Delhi & Ors. 2021 (4) Tmi 227 - Allahabad High Court

Provisional attachment with respect to the four sugar mills of the petitioner - Right to property - violation of the provisions of Section 5 of PML Act

In the instant case, assailing the provisional attachment order, no ground has been taken that the order has been passed by an incompetent authority or by an authority having no jurisdiction. In this view, it is not a case of lack of jurisdiction. Further, in this writ petition, the vires of the Act has not been challenged.

In this case, Right to Property is involved. Right to property is a constitutional right, which is always subject to restriction imposed by law. Further, the Right to Property has not been included under Part-III of the Constitution of India, which deals with the Fundamental Rights. Article 300-A is under Chapter IV of Part-XII of Constitution of India and it provides Right to Property. Thus, this is also not a case of enforcement of Fundamental Right. On the other hand, this is a case of right over the property, which can efficaciously be adjudicated by Forums provided under the Act.

It is trite (over familiar) law that the writ petition at the stage of show cause notice is not maintainable.

- It is also found that in addition to remedy available under Section 8 of the Act, the party/person aggrieved by an order made by Adjudicating Authority can prefer an appeal under Section 26 of the Act before the Appellate Tribunal and thereafter any person aggrieved by any decision or order of Appellate Tribunal can file an appeal before the concerned High Court, as provided under Section 42 of the Act.

The fact that the High Court has wide jurisdiction under Article 226 of the Constitution, does not mean that it can disregard the substantive provisions of a statute and pass orders which can be settled only through a mechanism prescribed by the Statute.

Considering various aspects including the multilayered remedies are available to the petitioner under the statute in which the impugned order of provisional attachment has been passed, we are not inclined to entertain this writ petition challenging the provisional attachment order under Section 5 of the Prevention of Money Laundering Act, 2002 - petition dismissed.

Anil Kumar Sharma v. Ed, Lucknow Zone, u.o.i.2021 (4) Tmi 69 - Allahabad High Court

Permission for withdrawal of application - second application seeking grant of interim bail on medical grounds - reports given by the Doctors, posted in jail was forged and misused by appellant

This Court finds that the Senior Medical Officer, in his report dated 15.08.2020, has specifically opined that the accused-applicant was required to

be worked at for surgery since surgical issue had got deteriorated which means that accused needed urgent surgery at a High Referral Hospital. This report became the basis for enlarging the accused-applicant on interim-bail by the Delhi High Court vide order dated 17.09.2020 as well as the order dated 14.08.2020 passed by this Court.

The Doctors, posted at the Jail Hospital, are required to remain careful, while issuing medical certificates, which may be misused by an accused. In the present case, the accused-applicant pressurized the AIIMS, New Delhi for his admission, but no urgency was found by the AIIMS, New Delhi for his admission for any surgery. However, the report dated 15.08.2020 of the Senior Medical Officer of Central Jail, 11 Mandoli, Delhi points out extreme urgency of surgical intervention for ailment of the accused-applicant - Mr. Lalit Kumar, the Senior Medical Officer, Central Jail, 11 Mandoli, Delhi is cautioned to remain careful in future, while issuing medical report in respect of an accused as the same may be used for an accused to obtain favourable order from the Court.

The Director, AIIMS, in his affidavit dated 14.02.2021 has stated that the accused-applicant was mounting pressure upon the authorities and Doctors of the AIIMS for admission, but none of the Departments recommended for his admission or surgery - the accused-applicant then submits that he would not like to press this second application for interim bail on medical ground and, he prays that the same may be dismissed as withdrawn.

This second application for interim bail is **dismissed as withdrawn.**

M/S. Shobha Woollens Pvt. Ltd., M/s. Kaka Overseas Ltd., And M/S. Kaka Carpets, V. UOI, State Bank Of India,2021 (3) Tmi 1132 - Andhra Pradesh High Court

Validity of imposition of "debit-freeze" of the bank accounts - Attachment of property in money laundering - conspiracy to create false and forged documents - cheating the Government of India by transferring of ₹ 569 crores in foreign exchange outside India to Singapore, Hongkong and China - search and seizure

The scheme of the Act provides for an initial attachment of the proceeds of the crime in the possession of any person for an initial period of 180 days by the Director or any other Officer not below the rank of Deputy Director Authorised by the Director, for the purposes of Section 5 of the Act. This attachment can be made only when the said officer records, in writing, his reason to believe that such a person is in possession of any proceeds of crime and that such proceeds of crime are likely to be concealed or transferred or debited in any manner which may result in frustration of

any proceedings relating to confiscation of such proceedings of the crime. After such provisional attachment is made, the said order of attachment, along with the material in possession of the said officer, shall be forwarded to the adjudicating authority in a sealed envelope for further proceedings.

The sine qua non for exercise of the powers under either section 5 or section 17 of the Act is the formation of an opinion, by a competent officer, that the conditions set out in these sections are found to exist. In the absence of such a finding, the exercise of power under these Sections would be without basis and cannot survive in the absence of these requirements. There are no such reasons recorded in the order dated 6.11.2020.

The **Hon'ble Supreme Court in OPTO Circuit India Limited vs. Axis Bank and others, [2021 (2) TMI 117 - SUPREME COURT]**, had considered a similar situation. In this case, the concerned authority, without any findings either under Section 5 of the Act or under Section 17 of the Act, had directed a debit-freeze/stop operation of the accounts of the petitioner therein. The Hon'ble Supreme Court after considering the provisions of the Act had held that while the provisions of the Act empower the appropriate authority to attach or seize the proceeds of the crime, the due process set out in the Act would have to be followed and the minimum requirement for such due process is the formation of an opinion, that he has "reason to believe", set down in writing. The Hon'ble Supreme court had also held that this formation of opinion, at the very least should be available in the file of the authority. In the present case also no finding, recorded in writing, either under Section 5 or Section 17 of the Act, has been placed before this Court, nor has any material been placed to show that such a finding is available in the files of the Enforcement Directorate.

The action of the 3rd respondent in the present case in issuing similar orders of debit-freeze/stop operation, cannot be sustained - the said order of the 3rd respondent directing the 4th respondent to freeze the accounts of the petitioners is not valid and has to be set aside - Petition allowed.

N.M. UMASHANKAR, V. JANARTHANAN, N. ARUNKUMAR, SARAVANAKUMAR V. THE ASST. DIRECTOR, DOE, GOI, CHENNAI**2021 (3) TMI 1027 - MADRAS HIGH COURT**

Seeking grant of Bail - corruption and abuse of high public office - HELD THAT:- The Hon'ble Supreme Court of India in the decision reported in [2019 (9) Tmi 286 - Supreme Court], has considered the scope of bail in economic offences involving corruption and abuse of high public office and in paragraph nos.18 to 23 has observed that "*basic jurisprudence relating to bail is that bail is the rule and refusal is the exception, etc., Though gravity of offence is an important factor and economic offences*

as in present case are considered grave, consideration for grant of bail would depend upon facts of each case and taking into consideration all the facts and circumstances, has enlarged P.Chidambaram, on bail, subject to certain conditions'.

Granting of bail is a discretionary relief and it is a well settled position of law that bail is the rule and jail is the exception. Though the respective learned counsels appearing for the parties has placed reliance upon the above said judgments, in the considered opinion of this Court, there cannot be any precedent in the matter of granting bail and the consideration to grant or refuse to grant bail, have to be decided on case to case basis and depends upon the facts and circumstances of each case.

The petitioner shall execute a bond for a sum of ₹ 1,00,000/- with two sureties each for a like sum to the satisfaction of the Court of Principal City Civil and Sessions Judge, City Civil Court, Chennai - Bail is granted subject to conditions imposed - application allowed.

Sri. Jagdish Chandra Sharma V. UOI2021 (3) Tmi 962 - Karnataka High Court

Seeking grant of Anticipatory Bail - transit bail - fake and fraudulent transactions - breach of conditions of agreements entered into for sale of land to poor people or employees - Economic Offences -

Reliance was placed in the case of P. Chidambaram [2019 (9) Tmi 286 - Supreme Court] where it was held that *in a case like an Economic Offences, the Court should not grant anticipatory bail and if the anticipatory bail is granted, the investigation may be frustrated.*

In view of the judgment of the Hon'ble Supreme Court, the alleged offence though non-bailable, the same is punishable with 7 years of imprisonment and even under PMLA, the punishment is 7 years, but the alleged offences committed amounts to cheating and fraudulent transaction from initial stage. They planned and prepared documents dealing with sale and M/s. SDL acted as seller and buyer of the properties and almost more than ₹ 200 Crores of fake transactions said to have been created by the petitioner and therefore, the alleged offence is nothing but an economic offence which obstructs the development of the State and the Country. The petitioner is not entitled for any anticipatory bail from this Court - Criminal petition dismissed.

N.I. Act

NEWS



Delhi High Court laid down the procedure to be followed for offences u/s 138 N.I. Act as follows: -

- On the day complaint is presented, if the complaint is accompanied by affidavit of complainant, the concerned MM shall scrutinize the complaint & documents and if commission of offence is made out, take cognizance & direct issuance of summons of accused, against whom case is made out.
- If the accused appears, the MM shall ask him to furnish bail bond to ensure his appearance during trial and ask him to take notice u/s 251 Cr. P.C. and enter his plea of defence and fix the case for defence evidence, unless an application is made by an accused under section 145(2) of N.I. Act for recalling a witness for cross examination on plea of defence.
- If there is an application u/s 145(2) of N.I. Act for recalling a witness of complainant, the court shall decide the same, otherwise, it shall proceed to take defence evidence on record and allow cross examination of defence witnesses by complainant.
- To hear arguments of both sides.
- To pass order/judgment.

CORPORATE LAWS & OTHER COMMERCIAL POLICIES

NOTIFICATION

The Companies (Incorporation) Fourth Amendment Rules, 2021

The MCA vide notification dated June 07, 2021 has further amended the Companies (Incorporation) Rules, 2014, whereby in Rule 38A, the facility of obtaining Shops and Establishment Registration has been included at the time of incorporation of the company in addition to GST registration, EPFO, ESIC, Professional Tax Registration in Maharashtra and Opening of Bank Account. Further, changes in Form No. INC-35 have been notified where in place of "AGILE-PRO", the letters "AGILE-PRO-S" has been substituted.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?m ds=r2JGVOj52RJgsqksMI8Hqw%253D%253D&type =open>

The Companies (Meetings of Board and its Powers) Amendment Rules, 2021

The MCA vide Notification dated June 15, 2021 has omitted Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 which was related to the matters not to be dealt with in a meeting through video conferencing or other audio-visual means.

Accordingly, with the said amendment, now the following items can be considered in a Board Meeting held through video conferencing or other audio-visual means, namely: -

- The approval of the annual financial statements;

- The approval of the Board's report;
- The approval of the prospectus;
- The Audit Committee Meetings for consideration of financial statement including consolidated financial statement if any, to be approved by the board under section 134 (1) of the Companies Act, 2013; and
- The approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.

For details:

<https://egazette.nic.in/WriteReadData/2021/227614.pdf>

The Companies (Creation and Maintenance of databank of Independent Directors) Amendment Rules, 2021

The MCA vide notification dated June 18, 2021 has amended the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019. Accordingly, with this amendment, a new sub-rule 8 has been inserted in Rule 3, whereby it stipulates that in case of delay on the part of an individual in applying to the Indian Institute of Corporate Affairs for inclusion of name in the data bank of independent directors or in case of delay in filing an application for renewal thereof, the institute shall allow such inclusion or renewal, as the case may be, after charging a further fee of Rs.1000 on account of such delay.

For details:

<https://egazette.nic.in/WriteReadData/2021/227694.pdf>

MCA prescribes the manner of Transfer of Shares under the provisions of SBO to the IEPF Fund

The MCA vide notification dated June 09, 2021 has further amended the provisions of the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016, whereby a new Rule 6A pertaining to the Manner of transfer of shares under sub-section (9) of Section 90 of the Companies Act, 2013 to the Investor Education and Protection Fund (IEPF) has been inserted.

The rules provide that the shares shall be credited to DEMAT Account of the IEPF Authority within a period of 30 days of such shares due to be transferred to the IEPF Fund with following important conditions:

- Transfer of shares by the companies to the IEPF Fund shall be deemed to be transmission of shares and the procedure to be followed for transmission of shares shall be followed by the companies while transferring the shares to the IEPF fund;
- Such shares shall be transferred to the IEPF Authority without any restrictions and no

application shall be filed for claiming back such shares from the IEPF Authority;

- The voting rights on shares transferred to the IEPF Fund shall remain frozen. However, for the purpose of the SEBI (SAST) Regulations, 2011, the shares which have been transferred to the IEPF Authority shall not be excluded while calculating the total voting rights.

For details:

<https://egazette.nic.in/WriteReadData/2021/227437.pdf>

MCA prescribes new Accounting Standards Rules, 2021

MCA has prescribed the Companies (Accounting Standards) Rules, 2021 in supersession of the Companies (Accounting Standards) Rules, 2006 in which threshold limit of turnover and borrowings for Small and Medium Sized Company (has been enhanced Now, SMC means a company whose turnover (excluding other income) does not exceed Rs 250 crores and does not have borrowings (including public deposits) in excess of Rs 50 crores at any time during the immediately preceding accounting year Previously, the threshold limit was Rs 50 crores and Rs 10 crores for turnover and borrowings, respectively. Further, an existing company which was previously not an SMC and subsequently becomes an SMC, shall not be qualified for exemption or relaxation in respect of Accounting Standards available to an SMC until the company remains an SMC for two consecutive accounting periods.

For details:

<https://mca.gov.in/bin/dms/getdocument?mds=RKk43Bmg99ksfV0bUGr6XA%253D%253D&type=open>

Clarification regarding stamp duty payable upon distribution of property on dissolution of Limited Liability Partnership as per the provisions of the LLP Act 2008 (Rajasthan Government order dated 28.06.2021)

Rajasthan Government issued an order wherein it was stated that where the assets is purchased by LLP and distributed/transferred to Partners on dissolution, stamp duty of Rs.500/- would be levied on the deed executed for said distribution.

CIRCULAR

Further relaxation on levy of additional fees in filing of certain Forms on MCA21 portal

On account of requests for further extension of timelines specified in Circular No. 06/2021 dated 03rd May, 2021, MCA has further granted additional time for filing of various forms (other than charge related forms) under the Companies Act and LLP Act due for filing during 01st April, 2021 to 31st July, 2021 up to 31st August, 2021 without any additional fees. Accordingly, Forms DPT-3 and CFSS-2020 can be filed by 31st August, 2021 on normal fees.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=oNI%252BU4n7x%252FntbDPEaxYULQ%253D%253D&type=open>

Now, companies may hold EGM through Video Conference (VC) or other audio-visual means (OAVM) up to 31st December, 2021

The MCA in view of the continued disruption caused due to COVID-19 pandemic and to provide greater ease of doing business has further allowed companies to conduct their EGMs through VC or OAVM or transact items through postal ballot in accordance with the framework provided up to 31st December, 2021 in accordance with MCA Circular Nos. 14/2020 & 17/2020 dated 08th April, 2020 & 13th April, 2020. Previously, the last date was 30th June, 2021. For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=fYGpVQRhK8ssM3lRSs7fsg%253D%253D&type=open>

Relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013

In continuation to General Circular No.07/2021 dated May 03, 2021, the MCA has decided to substitute the figures "31.05.2021" and "01.06.2021" wherever they appear in the said circular with the figures "31.07.2021" and "01.08.2021" respectively. The other requirements as mentioned in the said circular shall remain unchanged and this Circular shall be without prejudice to any belated filings that may have already been made along with additional fees/ ad valorem fee. For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=vqTLu4GNC8MKujYEiUpIEg%253D%253D&type=open>

SEBI NEWS



Revised Framework for Regulatory Sandbox

SEBI has revised the eligibility criteria of the Regulatory Sandbox in order to enhance the reach and achieve the desired aim. With the intent to promote innovation in the securities market, SEBI had issued framework for Regulatory Sandbox vide circular no. SEBI/HO/MRD-1/CIR/P/2020/95 dated June 05, 2020. The Objective of Regulatory Sandbox is to grant certain facilities and flexibilities to the entities regulated by SEBI so that they can experiment with FinTech solutions in a live environment and on limited set of real users for a limited time frame. The updated guidelines pertaining to the functioning of the Regulatory

Sandbox are provided at Annexure A to this Circular.

For details:

https://www.sebi.gov.in/legal/circulars/jun2021/revised-framework-for-regulatorysandbox_50521.html

Guidance note on communications by Listed Entities

The Stock Exchanges (NSE and BSE) issued guidance note to the listed entities where it is provided that the company shall ensure that no price-sensitive information is disclosed unless the same has been first disclosed to the stock exchanges. Further, to protect the interest of the stakeholders an indicative list of things has been given that shall be kept in mind by the listed entities while publicizing the company. As per the guidance note, this may be significant to survive in an ecosystem in which the company operates, stakeholder interest is of paramount importance as well. For details:

<https://www.bseindia.com/markets/MarketInfo/DISPNewNoticesCirculars.aspx?page=20210611-28>
https://static.nseindia.com/s3fs-public/inlinefiles/NSE_guidance_note_11062021.pdf

Format of Compliance Report on Corporate Governance by Listed Entities

As per the provisions of Regulation 27(2) of SEBI (LODR) Regulations, 2015, a listed entity is required to submit a quarterly compliance report on corporate governance to recognised Stock Exchange(s) in the format specified by the SEBI from time to time. In order to bring about transparency and to strengthen the disclosures around loans/ guarantees/ comfort letters/ security provided by the listed entity, directly or indirectly to promoter/ promoter group entities or any other entity controlled by them, SEBI has prescribed the format of such disclosures on a half yearly basis, in the Compliance Report on Corporate Governance and shall be effective from financial year 2021-22. For details:

https://www.sebi.gov.in/legal/circulars/may-2021/format-of-compliance-report-on-corporate-governance-by-listed-entities_50338.html

Securities Contracts (Regulation) (Amendment) Rules, 2021

Ministry of Finance (MoF) has notified the Securities Contracts (Regulation) (Amendment) Rules, 2021 which shall come into force on the date of their publication in the Official Gazette i.e. 18-06-2021. It is provided that where the public shareholding in a listed company falls below 10%, as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016, the same shall be increased to at least ten per cent, within a maximum period of twelve months from the date of such fall, in the manner specified by the SEBI.

Further provided that, every listed company shall maintain public shareholding of at least 5% as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016. For details:

<https://egazette.nic.in/WriteReadData/2021/227722.pdf>

Streamlining the process of IPOs with UPI in ASBA and redressal of investor grievances

SEBI vide its circular dated 2nd June, 2021 has modified the measures which came into effect vide its circular dated 16th March, 2021 where measures to have a uniform policy to further streamline the processing of ASBA applications through UPI process among intermediaries/SCSBs and also provided a mechanism of compensation to investors. The stakeholders have approached SEBI seeking additional time for implementing the system changes given in the prevailing uncertainty due to the COVID-19 pandemic. In view of the representations received from stakeholders, the implementation timelines have been revised. The automated web portal shall be live and operational after due testing and mock trials with the CUG entities for public issues opening on or after 1st October, 2021. The requisite information on this automated portal shall be updated periodically in intervals not exceeding two hours.

For details:

https://www.sebi.gov.in/legal/circulars/jun-2021/streamlining-the-process-of-ipos-with-upi-in-asba-and-redressal-of-investor-grievances_50401.html

'Off-market' transfer of securities by FPI

SEBI came out with guidelines for relocation of foreign funds to the International Financial Services Centre (IFSC). For relocation, a Foreign Portfolio Investor (FPI) or its wholly-owned special purpose vehicle may approach its Designated Depository Participants (DDP) for approval of a one-time 'off-market' transfer of its securities to the 'resultant fund'. The Finance Act, 2021 provides tax incentives for relocating foreign funds to International Financial Services Centre (IFSC) in order to make the IFSC in GIFT City a global financial hub. DDPs after appropriate due diligence may accord its approval for a one-time 'off-market' transfer of securities for such relocation.

For details:

https://www.sebi.gov.in/legal/circulars/jun2021/-off-market-transfer-of-securities-by-fpi_50380.html

RBI NEWS



RBI releases Consultative Document on Regulation of Microfinance

The Reserve Bank of India had announced that a consultative document will be issued for harmonising the regulatory frameworks for various regulated lenders in the microfinance space. Accordingly, the Consultative Document on Regulation of Microfinance has been released on June 14, 2021 for feedback from all stakeholders. Comments/observations/suggestions on the Consultative Document, especially on the discussion points mentioned therein, are invited from banks, NBFCs including NBFCMFIs, industry associations and other stakeholders latest by July 31, 2021. Feedback on the Consultative Document may be sent by microfinancefeedback@rbi.org.in with the subject line 'Feedback on the Consultative Document on Microfinance'. For details:

https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=51725

RBI launches Survey on Computer Software and Information Technology Enabled Services (ITES) Exports: 2020-21

The annual survey being conducted since 2002-03, collects data on various aspects of computer services exports as well as exports of information technology enabled services (ITES) and business process outsourcing (BPO). The survey results are released in the public domain besides being used for compilation of balance of payments (BoP) statistics and other uses. The survey schedule for the 2020-21 round is required to be filled in by all software and ITES/BPO exporting companies. The soft form of this survey schedule (both in Hindi and English) is available on the RBI's website under the head 'Forms' (available under 'More Links' at the bottom of the home page) and sub-head 'Survey', which can be duly filled and submitted by surveysoftex@rbi.org.in July 31, 2021. For details:

https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=51784

RBI launches the Survey on Foreign Liabilities and Assets of Mutual Fund and Asset Management Companies': 2020-2021 round

The Reserve Bank has launched the 2020-21 round of its annual survey on 'Foreign Liabilities and Assets of Mutual Funds and Asset Management Companies'. The survey collects information from Mutual Fund companies and Asset Management Companies on their external financial liabilities and assets as at end-March of the latest financial year. Consolidated results of the survey are released in the public domain besides being used for compilation of India's external sector statistics. Asset Management companies (AMCs) are required to submit the annual return on Foreign Liabilities and Assets (FLA) online through the web-based portal (<https://flair.rbi.org.in>) by July 31, 2021. In addition, Mutual Fund companies are required to

fill the survey schedule (Schedule-4), which is available on the RBI website (www.rbi.org.in → Forms → Survey) and send via e-mail on mf@rbi.org.in by July 31, 2021. For details:

https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=51785

RBI caps dividend declaration by NBFCs

Reserve Bank of India has notified the guidelines on declaration of dividend by Non-Banking Finance Companies (NBFCs) with an objective to infuse transparency and uniformity in the practice of corporates. The said guidelines will be effective from profits of FY 21-22.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12118&Mode=0>

Resolution Framework - 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses and Micro, Small and Medium Enterprises (MSMEs) - Revision in the threshold for aggregate exposure

The Reserve Bank of India has enhanced the limits of below mentioned eligible borrowers who may be considered for resolution under the framework from Rs.25 crore to Rs.50 crore: (i) Individuals who have availed of loans and advances for business purposes and to whom the lending institutions have aggregate exposure of not more than Rs.25 crore as on March 31, 2021. (ii) Small businesses, including those engaged in retail and wholesale trade, other than those classified as MSME as on March 31, 2021, and to whom the lending institutions have aggregate exposure of not more than Rs.25 crore as on March 31, 2021. (iii) MSME accounts- the aggregate exposure, including non-fund based facilities, of all lending institutions to the MSME borrower should not exceed Rs.25 crore as on March 31, 2021.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12104&Mode=0>

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<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12105&Mode=0>

Extension of time for Submission of returns under Section 31 of the Banking Regulation Act, 1949



Reserve Bank hereby extends the period of three months for the furnishing of the returns under

Section 31 of the Act for the financial year ended on March 31, 2021, by a further period of three months. Accordingly, all UCBs, State Co-operative Banks and Central Co-operative Banks shall ensure submission of the aforesaid returns to Reserve Bank on or before September 30, 2021. The State Co-operative Banks and Central Cooperative Banks shall also ensure submission of the aforesaid returns to NABARD on or before September 30, 2021.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12107&Mode=0>

Master Direction – Reserve Bank of India (Certificate of Deposit) Directions, 2021



The draft Directions were released by the Reserve Bank of India for public comments on December 04, 2020. Based on the feedback received from the market participants, the Reserve Bank of India (Certificate of Deposit) Directions, 2021 were reviewed, finalised and issued.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12108&Mode=0>

On-Tap Liquidity Window for Contact-Intensive Sectors

The Reserve Bank of India has decided to open a separate liquidity window of Rs.15,000 crore with tenors of up to three years at the repo rate till March 31, 2022 for certain contact-intensive sectors i.e., hotels and restaurants; tourism - travel agents, tour operators and adventure/heritage facilities; aviation ancillary services - ground handling and supply chain; and other services that include private bus operators, car repair services, rent-a-car service providers, event/conference organisers, spa clinics, and beauty parlours/saloons.

For details:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=51687



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