

DIRECT TAX

News

I-T dept again defers GST, GAAR reporting in tax audit report till March 2020

The income tax department deferred for the second time the requirement for companies to include in their tax audit report the details of Goods and Services Tax (GST) and GAAR. The reporting requirement of these details in income tax audit form has been kept in abeyance till March 31, 2020 -- meaning that all income tax audit reports need not include details on GST and General Anti-Avoidance Rules (GAAR) till March 2020.

CBDT further deferred furnishing of GST & GAAR details in Form 3CD till March 31, 2020

CBDT for more exhaustive tax audit report for charitable trusts

The Central Board of Direct Taxes (CBDT) has proposed amendments to the tax audit report for charitable trusts and institutions, which would require additional details from assesseees in the form of status of registration under the Income Tax Act, compliance to conditions for application and registration status under the Foreign Contribution Regulation Act (FCRA), 2010, among others. The proposed changes will extend the audit form to 8 pages from 3 pages earlier.

Center moves SC against HC order on Khaitan

The Central government has moved the Supreme Court challenging a Delhi High Court decision to stay proceedings against Gautam Khaitan, an accused in the Agusta Westland VVIP chopper scam, under the Black Money Act of 2016. The HC had stayed the proceedings on the basis of a petition filed by Mr. Khaitan challenging a government notification that gave retrospective effect to the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act from July 2015.



Citing confidentiality, govt declines to share black money details received from Switzerland

The government has declined to share details on black money received from Switzerland, citing confidentiality. Replying to an RTI query, the Finance Ministry said India and Switzerland share information on black money on a case to case basis as per the investigations being carried out.

Notifications

Notification No. 38/2019 dated 3rd May, 2019 has amended Notification No. 36/2019 by which CBDT notified detailed format of Salary Certificate | Form No. 16 | Form No. 24Q to include more deductions under which Chapter-VIA.

Notification No. 39/2019 dated 10th May, 2019 has specified that any income arising to the M/s. Rolls-Royce Defense Services, Inc., 2001 by way of royalty or fees for technical services received in pursuance of the Mission Ready Management Solutions Agreement shall not be included in computing the total income of the said foreign company.

Notification No. 40/2019 dated 21st May, 2019 has notified Agreement for exchange of information with respect to tax matters between Government of the Republic of India and the Government of Republic of the Marshall Islands

Notification No. 41/2019 dated 22nd May, 2019 Income-tax Rules, 1962 have been amended to provide that the person responsible for paying the income shall accept the declaration in the case of the assessee, being a senior citizen, who is eligible for rebate of income-tax under section 87A, and his/her tax liability is nil after taking into account this rebate.

Notification No. 42/2019 dated 23rd May, 2019 Central Government notifies 'All India Council for Technical Education', New Delhi, in respect of the specified income to be exempt arising to that council under section 10(46) of Income Tax Act, 1961 for AY 2019-2024.

Notification No. 43/2019 dated 23rd May, 2019 Central Government notifies 'Tamil Nadu Real Estate Regulatory Authority', an Authority constituted by the State Government of Tamil Nadu in exercise of powers conferred under sub-section (1) of Section 20 of The Real Estate (Regulation and Development) Act, 2016 (16 of 2016) for the purposes of section 10(46) of Income Tax Act, 1961

Case Law

No reassessment could be made on basis of audit objection

Supreme Court in the case of ACIT v. FIS Global Business Solutions India Pvt. Ltd. in SLP(C) Diary No. 4174 of 2019 [2019] 104 taxmann.com 169

High Court in its order observed that AO issued reassessment notice on basis of audit objection that assessee-company had wrongly claimed and

was allowed deduction on account of Forex Gain on interest income which was not an allowable expense. High Court was of the view that audit objection is merely information and therefore, reassessment notice could not be sustained. SLP filed against order of High Court was dismissed by the Apex Court.

Reopening of assessment - Accommodations entries in the nature of bogus sales and unsecured loans - addition was made on the statement of Sh. Vikrant Kayan without providing any opportunity to the assessee to cross examine the same

Bhatia Diamonds Pvt. Ltd. Versus Ito, Ward 4 (4), New Delhi, 2019 (4) TMI 1112 - ITAT Delhi

Assessee has considerable cogency that addition was made on the basis of statement of Sh. Rajendra Jain, but the assessee was not granted the opportunity to cross examine Sh. Rajendra Jain which ground was also raised before the CIT(A), who did not adjudicate the same, which is against the settled law.

Since the impugned addition was made on the statement of Sh. Vikrant Kayan without providing any opportunity to the assessee to cross examine the same, which is in violation of principle of natural justice and against the law laid down by the Hon'ble Supreme Court of India in the case of Andaman Timber vs. CIT [2015 (10) TMI 442 - Supreme Court] the addition in dispute is deleted and the appeal of the assessee is allowed.

Addition u/s 68 - bogus LTCG - sale proceeds of shares of treating the same as income from undisclosed sources after rejecting the assessee's claim of Long Term Capital Gains (LTCG)

Sunil Kumar Shaw Versus Income-Tax Officer, Wd-24 (3), Hooghly, 2019 (4) TMI 877 - ITAT Kolkata

The purchases were made by the assessee in cash for acquisition of shares of companies and the purchase of shares of the companies was done through the broker and the address of the broker was incidentally the address of the company. The profit earned by the assessee was shown as capital gains which were not accepted by the A.O. and the gains were treated as business profit of the assessee by treating the sales of the shares within the ambit of adventure in nature of trade. Thus, it can be seen that in the decision relied upon by the Id. DR, the dispute was whether the profit earned on sale of shares was capital gains or business profit. Tribunal set aside the order of Ld. CIT(A) and direct the AO not to treat the long term capital on sale of shares of M/s KAFI as bogus and delete the consequential addition.



Validity of reopening of assessment, No sanction by the JCIT of the Range U/s 151(2), assessment without issue of notice U/s 143(2) , curable defect u/s 292BB

I.T.O., Ward 3 (1), Jaipur. Versus Shri Hans Raj Sharma and (Vice-Versa), 2019 (4) TMI 825 - ITAT Jaipur

Specific query was raised by the Bench on 16/10/2017, 19/09/2018 and 15/11/2018 giving time to the department for producing the case record to substantiate proper sanction by the JCIT of the Range U/s 151(2) of the Act. However, even after expiry of more than seventeen months when the case was again fixed on 25/3/2019, the department could not produce the evidence of sanction having been issued U/s 151(2) of the Act. Accordingly, considering the judicial pronouncements referred above and applying to the facts of the case, Tribunal do not find any merit in the notice issued U/s 148 of the Act without obtaining sanction by the JCIT of the Range U/s 151(2) of the Act.

Further Non issuance of Notice u/s 143(2) the assessee filed its return of income in response to the notice u/s 148 of the Act on 13.03.2015. The AO had concluded the assessment without issuing notice under section 143(2) of the Act after the return was filed by the assessee in response to notice under section 148 of the Act. The AO after receiving the return of the appellant filed in pursuance to notice u/s 148 of the Income Tax Act, 1961 did not issue notice u/s 143(2) of the Act which is sine qua non for assuming jurisdiction to assess the case. This is a grave error which is even not rectifiable u/s 292BB of the Act and hence orders so passed lacks proper authority with the AO and hence the order so passed deserves to be declared void ab initio.

Reopening of assessment u/s 148 - validity of notice against dead person

Urlabhai Kanubhai Rajpara versus Income Tax Officer Ward 1 (3) (7), Surat 2019 (4) TMI 784 - Gujarat High Court

Father of the petitioner expired on 12.6.2016 and impugned notice was issued on 28.3.2018 - notice in the name of legal representative In the present case, the assessee has at first point of time objected to the issuance of notice u/s 148 and has not participated or filed any return pursuant to notice. Therefore, legal representatives not having waived requirement of notice u/s 148 and not having submitted to the jurisdiction of the AO pursuant to impugned notice, provisions of section 292A also would not be attracted and hence notice u/s 148 has to be treated as invalid.

Levy of penalty u/s 271(1)(c) - addition on account of surrender of sale amount of the assessee in place of returned income

Shashank Gupta versus Ito Ward 2 (3) Muzaffarnagar 2019 (4) TMI 832 - ITAT Delhi

As find that during the course of scrutiny assessment proceedings the AO has proceeded by the assumption that the shares purchased and sold by the assessee comes into the category of penny stock companies. AO has drawn support from outside information. The surrender of exemption by the assessee on repetitive queries would not amount to furnishing of inaccurate particulars of income. The assessee has claimed exemption as per the provisions of law, though surrendered during the course of assessment proceedings. No penalty is leviable u/s 271(1)(c) - Decided in favour of assessee.

Assessment u/s 153A- Jurisdiction of AO to assess the assessee for the year under consideration on the basis of subsequent search.

M/S Radico Khaitan Ltd versus the D.C.I.T Central Circle - New Delhi

2019 (4) TMI 1165 - ITAT Delhi

Issues attained finality by the order of the Settlement Commission for assessment year covered in first search - DR contended that disclosure before the Settlement Commission was not true and correct and, therefore, the AO was well within his power to frame the assessment u/s 153A, The assessment order framed u/s 153A of the Act is without jurisdiction and deserves to be quashed.

Assessment u/s 153A - questions of validity of search authorization against the assessee-statement was recorded at the fag end of the search when assessee was exhausted-compulsion to admit additional income - statement taken was not a statement as per the provisions of sec. 132(4).

Principal Commissioner of Income Tax (Central-4) versus M/S. Harsh Deep Construction

2019 (4) TMI 1180 - Bombay High Court

It was of the opinion that even though revenue may have an arguable case in relation to the tribunal's first conclusion of invalidity of assessment u/s 153A, in view of the tribunal's ultimate conclusions, these Appeals are not required to be entertained. The tribunal in the impugned judgment while deleting additions on merits has come to the conclusion that the revenue authorities did not contradict the submissions of the assessee regarding impermissibility of reliance on certain documents and the statements recorded in search. The tribunal also noted that the analysis carried out by the Assessing Officer suffered from multiple infirmities. Assessing Officer had not carried out the qualitative analysis and had carried out on certain arithmetical calculations based on loose papers. In the result the entire issue is based on appreciation of materials on record. No question of law arises - Appeals are dismissed.

Addition of unexplained expenditure u/s 69C - no incriminating material found in search and seizure- advertisement expenses - disallowance u/s 14A - additional ground filed

by the assessee challenging additions made u/s 153A as bad in law as the same were not made on the basis of incriminating material found during the course of search

ACIT, Central Circle-07, New Delhi versus Varun Beverages Ltd. and (Vice-Versa)

2019 (4) TMI 1220 - ITAT Delhi

A bare perusal of the assessment order shows that there is no mention of any incriminating material found during the course of search with respect to unexplained advertisement expenses or expenditure for earning tax free dividend income, therefore, in absence of any incriminating material found during the course of search, no addition on account of bogus advertisement expenses or disallowance u/s 14A r.w.t. Rule 8D can be made. The legal ground raised by the assessee was allowed under Rule 27 of the ITAT Rules, 1963 and decide the same in favour of the assessee. Since the assessee succeeds on the legal ground, therefore, the appeal filed by the Revenue is dismissed.

Further Disallowance u/s 14A - no exempt income Since it is an admitted fact that no exempt income has been received by the assessee during the year, therefore in absence of any exempt income, no disallowance u/s 14A r.w. Rule 8D is permissible, no disallowance u/s 14A r.w. Rule 8D is called for.

Penalty u/s 271(1)(c) - difference in estimation of the value of the land as on 1.4.1981 for capital gain computation - quantum of income determined is certainly not beyond the shadow of doubts - tribunal deleted the addition, Assessing Officer having imposed the penalty, the CIT(A) and the Tribunal both concurrently held that mere difference in estimation of the value of the land as on 1.4.1981 would not give rise to penalty.

Pr. Commissioner Of Income Tax-29, Mumbai Versus G.M. Finance & Trading Co

2019 (4) TMI 1133 - Bombay High Court

The Tribunal recorded that there was neither any concealment of income or particulars thereof. The CIT(A) also highlighted the point of diversion between two sides why there was wide gap between two valuations; one presented by the assessee backed by the Government approved valuer and another obtained by the Assessing Officer during the course of assessment. No error in view of the Tribunal. No question of law arises.

BENAMI LAW

Case Law

“A Commercial Transaction entered into Course of Business by Independent Entity Cannot be Colored as a Benami Transaction”

Initiating Officer V/S M/S Deja Vu Farms Pvt. Ltd. And Sh. Shah Rukh Khan

The tax department had attached the farm house and plot, built on an agricultural land, in Alibaug, worth about Rs 15 crore, and had called the company-Ms Deja Vu



Farms Pvt Ltd- a benamidar (in whose name benami property is standing) and the 53-year-old actor a beneficiary (who pays money consideration) of a benami deal booked under the Prohibition of Benami Property Transaction Act.

The Adjudicating Authority (AA) slammed the income tax department authority for issuing the order against Khan and a company-- in which he, his wife Gauri Khan and in-laws are shareholders, saying a "commerical transaction entered into course of business by an independent entity cannot be coloured as benami transaction because it had sourced the funds from loans."

The Authority rejected the I-T Department's allegation that the entire transaction of purchasing the land parcels in Alibaug and construction of a luxury farm house on it was done on the "desire and instruction" of Khan and from "unsecured loans" of about Rs 14.67 crore provided by him to the firm.

News

Income-tax crackdown on 'benami' properties 'gifted' to Dera.

The income-tax (I-T) department has issued notices to several Dera followers who had allegedly 'gifted/transferred'

large chunks of land in the Dera's name after the properties were purchased in their names.

In most cases, the properties were alleged to have been purchased in the name of Dera followers and later they 'gave' the Dera general power of attorney for that land. The land was subsequently transferred or gifted in favour of the Dera.

Notification

"Ministry of Finance" issued a notification on dated 27th May, 2019 in which it has mentioned the amended provision mentioning the method of recruitment of Adjudicating Authority and during appointment their medical fitness will also be check and notification also mention the conditions of services of members of Adjudicating Authority for ex. salary and allowances, pension, gratuity and PF, leave, accommodation etc.

GST

AAR allows input tax credit by debt settlement under GST regime

Companies can claim input tax credit (ITC) under the goods and services tax (GST) regime even if the liability to pay for inputs between them, including tax, is discharged through adjustments in their books, ruled an authority for advance rulings (AAR). The Bengal wing of AAR made the ruling while hearing a case relating to Senco Gold, a supplier of jewellery. The firm also operates a network of franchisee-operated stores.

Real estate firms in a tough spot after Maharashtra AAR ruling

Real estate companies that rent out commercial spaces have found themselves in a tight spot after the Maharashtra Authority for Advanced Ruling (AAR) ruled that payment of utility bills — electricity, water and cooking gas, among others — by the lessee will be treated as consideration for part of the composite supply, and will attract the levy of goods and services tax (GST).

Automated GST refund for exporters by next month

Exporters of goods and services as well as suppliers to SEZ units are likely to get GST refunds automatically from June as the revenue department plans to introduce faceless scrutiny of refunds and faster claim settlement, an official said. Under GST, every person making a claim of refund on account of 'zero-rated' supplies has two options. Either he can export without payment of integrated tax under Bond/ LUT and claim a refund of accumulated Input Tax Credit (ITC) or he may export on payment of integrated tax and claim refund thereof.

GST rate on homes: Most builders opt for 12% GST for ongoing projects

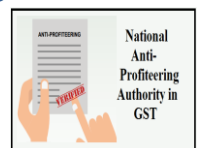
Most real estate developers have opted for 12% GST rate for housing units in ongoing projects as it allows them to retain their profit margin due to availability of input tax credit (ITC), analysts said. Selling houses at 5% GST without any ITC would force builders to hike prices — as blocked ITC becomes part of cost — which could turn away buyers in the already-subdued market.

of income or particulars thereof. The CIT(A) also highlighted the point of diversion between two sides why there was wide gap between two valuations; one presented by the assessee backed by the Government approved valuer and another obtained by the Assessing Officer during the course of assessment. No error in view of the Tribunal. No question of law arises.

Earlier this year, the GST Council had decided that all new regular projects launched after April 1 would charge 5% GST to buyers, but builders can't avail themselves of ITC.

GST anti-profiteering body may get fresh lease of life

India's anti-profiteering framework may remain in place for another two years as the country eyes more changes to the goods and services tax (GST) structure. Aimed at protecting consumer interest under GST, it was initially meant to be in place for two years.



GSTN Starts Offering Free Software To MSMEs For Filing GST Returns-

GSTN Starts Offering Free Software to MSMEs For Filing GST Returns-The Goods and Services Tax Network said it has started offering free accounting and billing software to micro, small and medium enterprises with annual turnover of up to Rs 1.5 crore.

Builders will have to refund GST on cancellation of flats booked in FY19

Builders will have to refund GST paid by home buyers in case he cancels the flat booked in the last fiscal and will be allowed to avail credit adjustment for such refunds. The FAQ said developer will be able to issue a 'Credit Note' to the buyer as per provisions of Section 34 in case of change in price or cancellation of booking. "Developer shall be able to take adjustment of tax

paid in respect of the amount of such Credit Note," the FAQ said.

GST on fuel, easier licensing rules the needed energy bars -

GST on fuel, easier licensing rules the needed energy bars -Bringing key petroleum products in the ambit of the Goods and Services Tax, easing licensing needs and taxation for upstream projects, enhancing third-party access to gas pipelines and helping in faster execution of city gas projects to stimulate gas demand in the country would be some of the key measures the new government

I-T Dept again defers GST, GAAR reporting in tax audit report till March 2020

The reporting requirement of these details in income tax audit form has been kept in abeyance till March 31, 2020 -- meaning that all income tax audit reports need not include details on GST and General Anti-Avoidance Rules (GAAR) till March 2020.

Automated GST refund for exporters by next month

Exporters of goods and services as well as suppliers to SEZ units are likely to get GST refunds automatically from June as the revenue department plans to introduce faceless scrutiny of refunds and faster claim settlement. "The revenue department and GSTN is working to make the process of seeking tax refund by all exporters faceless by next month.

Manpasand Beverages tanks 20% after MD, CFO arrested for GST fraud-

As per a CGST Commissionerate statement, the listed beverages company had been running fake units for availing input tax credit (ITC) fraudulently, committing a tax evasion of Rs 40 crore. Manpasand Beverages (MBL) shares were on Monday locked in lower circuit, down 20 per cent at Rs 88, on the BSE.

Notifications

Notification No. 23/2019 – Central Tax dated 11th May, 2019

Last Date for filing GSTR-1 of April for cyclone effected districts of Orissa on or before the 10th June, 2019.

Notification No. 24/2019 – Central Tax dated 11th May, 2019

Last Date for filing GSTR-3B of April for cyclone effected districts of Orissa on or before the 20th June, 2019

Notification No. 10/2019-Central Tax (Rate) dated 10th May, 2019

The last date for exercising the option by promoters to pay tax at the old rates of 12%/ 8% with ITC instead of the 5%/1% without ITC is extended from 10th May, 2019 to 20th May, 2019.

Notification No. 03/2019-Union Territory Tax dated 16th May, 2019

Ms. Nidhi Sarohe, Joint Commissioner appointed New AAR for Union territory of Andaman and Nicobar Islands

Notification No. 04/2019-Union Territory Tax dated 16th May, 2019

Appellate authority for Advance Rulings appointed in five UTs- Andaman and Nicobar Islands, Chandigarh, Daman and Diu ,Dadra and Nagar Haveli , Lakshdweep.

Case law

Safari Retreats Private Limited v Chief Commissioner of Central Goods & Service Tax [W.P. (C) 20463 of 2018]

The Hon'ble High Court of Orissa, vide its order in Safari Retreats Private Limited v Chief Commissioner of Central Goods & Service Tax [W.P. (C) 20463 of 2018], has allowed availment of input tax credit (ITC) on goods and services used for construction of immovable property and used in the course or furtherance of business. The Delhi High Court on Monday issued a notice to the Centre and the Delhi government on the issue of 'blocked credits' under the Goods & Services Tax (GST) regime. Such a mechanism is affecting hotels and malls.



DLF Commercial Projects Corporations Vs Commissioner of Service Tax

Ruling in favour of DLF Commercial Properties, a decision by Chandigarh tribunal last week held that an owner transferring rights to a promoter to develop his property should be seen as 'benefits arising out of transfer of an immovable property and hence not be subject to service tax.

Megha Engineering & Infrastructures Vs GST Authorities

A case involving Megha Engineering & Infrastructure and GST authorities in which company had delayed GST return filling from July 2017 to May 2018 and tax liability added to Rs.1014 crore. The company had ITC of Rs.968 crore. So company claimed shortfall of only Rs.45 crore and interest payment on this amount. The court upheld the department view and a taxpayer is liable to pay penalty on entire liability.

Atin Krishna Vs U.O.I. (Allahabad High Court)

A recent Allahabad high court judgment may, however, provide some relief with the court ruling that there shall be no tax levied in case of purchases made at duty free stores at the arrival or departure terminals.

RERA

Rajasthan RERA

NotificationNo.F.1(5)

RJ/RERA/2017/Pt. Dated 1st may, 2019

RAJ RERA notifies Rajasthan Real Estate Regulatory Authority (Amendment) Regulations, 2019. In the Amendment Regulations RAJ RERA has specified the definition of Registrar and the Procedure for changing the RERA Designated Bank Account.

Definition of Registrar shall now include other officers of Authority who may be authorized by Chairperson to carry out any function, who shall report directly to Chairperson.

RERA Designated Bank Account

Bank Account details may be changed only with the prior written permission of Authority.

A written application in Form R-4A mentioning basic details of bank accounts and reason for change must be filed along with following documents-

- 1) Latest Account Statement/Copy of passbook of Existing RERA Account;
- 2) Latest Account Statement/Copy of passbook of proposed RERA Account;
- 3) Copy of receipt of fee deposited for such change.

After obtaining the permission from the Authority the balance must be transferred from Old to New RERA Account 15 days and following documents must be submitted after receiving confirmation from Authority-

- 1) Form R-4B "Confirmation letter of change in RERA Account"
 - 2) Form R-4C Certificate from Bank "Having new RERA Account"
 - 3) Form R-4D Certificate of Chartered Accountant
 - 4) Proof of Old RERA Account Closure
- New Forms R-4A, R-4B, R-4C and R-4D Introduced.

RERA Prevails Over Companies Act; Winding Up Order Will Not Bar RERA Proceedings: Rajasthan Authority

The Rajasthan Real Estate Regulatory Authority has held that winding up order under Section 279 of the Companies Act 2013 will not bar proceedings under Real Estate (Regulation and Development) Act 2016. This was held by the Authority while dismissing an application filed by the builder seeking stay of proceedings on the ground that the Delhi High Court had appointed a provisional liquidator in respect of the builder-company, while the proceedings under RERA were pending. The builder cited Section 279 of the Companies Act, which states that no suit or legal proceeding against the company can be commenced or continued against the company after the passing of the winding up order except with the permission of the Tribunal. At the outset, the Authority noted that no winding up order as such has been passed and the mere appointment of provisional liquidator without passing a winding up order will not attract the bar under Section 279 of the Companies Act.

UP RERA

Deregisters first project in Noida

Uttar Pradesh Real Estate Regulatory Authority has deregistered three projects in Noida after it found serious financial irregularities, diversion and siphoning of funds and cases of double allotment.

In its order passed on Wednesday, the authority decided to deregister Unnati Fortune Holdings Ltd's projects Aranya Phase 3, 4 and 5 under Section 7 of the RERA Act. The registrations for

projects Aranya Phase 1 and 2 have lapsed. The process after deregistration will commence in consultation with the State Government.

The project's value is over Rs 1,500 crore which commenced in 2007 and is located at Noida, Sector 119. The inspection team of the Authority had inspected the site and found that out of eight towers that had to be constructed; only four were in completion stage. Construction of villas too had not begun.

Earlier, the Authority had issued deregistration notices under Section 7 of the RERA Act to seven builders for failing to meet their commitments to buyers invested in 14 projects and approximately 4800 residential units.

After deregistration, there are several options before the Authority under Section 8 of the Act under which Buyers should be given the first right to complete the project.

Further, in adherence to Section 7(4) of the Act, Unnati Fortune Holdings Private Limited has been denied access to it on Rera website and has been blacklisted as a defaulter.

The UP Real Estate Regulatory Authority (UP Rera) has also frozen the bank accounts of the realtor. In all nine bank accounts of the erring developer with Noida branches of HDFC, Axis Bank, PNB, Corporation Bank and ICICI have been frozen.

In April, UP Rera had written a letter to DG Institutional Finance and zonal heads of all banks informing them about section-4(2)(I)(D) which made it mandatory upon a developer to deposit 70 per cent of the amounts realized for the real estate project from the allottees, in a separate escrow account with a scheduled bank. The letter had pointed out that it was obligatory upon both the developer and the banks to ensure strict compliance of Rera Act on withdrawals and deposits.

Order for registration of project

Due to severe non-compliances of RERA laws and regulations, the RERA Authority has ordered a builder named R Sons Infra Limited to register its four unregistered projects which are Prakhar City 2 (Lucknow), Jeevandeep Prakhar City 1, Jeevan Prakash and Jeevandeep (Barabanki) within three months from the date of order on which the builder has invested over Rs 45 Crore for the construction work. If the builder fails to do that, it will have to face a penalty of Rs 41.15 crore in total. The order came after the authority received around 117 complaints against the builder. However, it has rejected all the complaints and ordered that all complainants will be free to file fresh complaints once the projects will be registered.

The authority has also ordered an SIT investigation of the builder over the alleged mismanagement of funds and carried out its own inquiry in which it found that the map of Jeevandeep Prakhar City 1 is not approved by the zila panchayat.

Interestingly, in its affidavit filed with the authority, the builder has acknowledged that only one map of six blocks in Jeevandeep has been approved, map of Prakhar City 2 has been rejected by Lucknow development authority.

Case law

M/s Ansal Housing Ltd. Versus Sh Sushil Kumar Batra and M/s Ansal Housing Ltd. Versus Sh Narain Dass Sardana

The Haryana Real Estate Appellate Tribunal, Chandigarh the Bench has held that the Complaints dealing with the relief of refund along with interest can only be entertained and adjudicated by the Adjudicating Officer and the learned Authority has no jurisdiction to grant the relief of refund.

CORPORATE LAWS & OTHER COMMERCIAL POLICIES

Govt Plans introducing artificial intelligence system in MCA 21 portal

Corporate affairs ministry plans to introduce artificial intelligence system in the MCA 21 portal as it seeks to make compliance process easier as well as ensure routine enforcement activities are done round-the-clock on autopilot basis. MCA 21 is the electronic backbone for the dissemination of information to all stakeholders, including the regulator, corporates and investors. All filings under the company law are submitted to the ministry through this portal.

MCA has issued an advisory on its portal that the last date for filing ACTIVE (eForm INC-22A) shall expire on 15th June, 2019 and no further extension for the filing of form would be provided.

Further, in case ACTIVE is not filed on or before the said date, the compliance status for such companies shall be marked as 'ACTIVE Non-compliant' and Directors of such 'ACTIVE non-compliant' companies shall be marked as 'Director of ACTIVE non-compliant company'. The fee for filing e-Form ACTIVE under rule 25A of the Companies (Incorporation) Rules, 2014 for all delayed filings after 15-06-2019 shall be Rs. 10,000/-

MCA has given the clarification on format of audit report for reconciliation of share capital and filing of the same with the Registrar of Companies.

Every unlisted public company is required to submit audit report as provided under regulation 55A of the securities and Exchange Board of India (Depositories and participants) Regulations, 1996 on a half-yearly basis with the jurisdictional Registrar of Companies. The audit report as provided under regulation 55A is required to be obtained from a qualified Chartered Accountant or a practicing Company Secretary. The said audit report shall give updated status of the registrar of members of the issuer and confirm that securities have been dematerialised.

MCA has notified the Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2019 which shall come into force from 30-09-2019.

The amendment are carried out to notify a new Form PAS – 6- Reconciliation of Share Capital

Audit Report (Half-yearly) Pursuant to sub-rule (8) of rule 9A Companies (Prospectus and Allotment of Securities) Rules, 2014. (All information shall be furnished for the half year ended 30th September and 31st March in every financial year for each ISIN separately). Few days back, ICSI has submitted the representation along with draft of separate form to the MCA, for bringing out new form for The Reconciliation Certificate. Accordingly, Every unlisted public company governed by this rule shall submit Form PAS-6 to the Registrar with such fee as provided in Companies (Registration Offices and Fees) Rules, 2014 within sixty days from the conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice.

MCA has notified the Companies National Financial Reporting Authority (Meeting for Transaction of Business) Rules, 2019 which shall come into force on the date of its publication in the Official Gazette i.e 22-01-2019.

All the meetings for transaction of business of the Authority will be held at its head office situated in New Delhi for the purpose of discharging its functions. The Matters placed for consideration of the Authority shall be decided by a majority of the members present and voting, and in the event of equality of votes, the chairperson or in his absence, the member presiding, shall have a second or casting vote. The quorum for a meeting of the Authority shall be four Members, of which at least one member shall be a full-time member. In any situation not provided in these rules, the chairperson in writing the reason may determine the procedure in certain circumstances. No act or proceeding of the Authority shall be invalid merely by reason of any irregularities in the procedure of the Authority not affecting the merits of the case.

RBI has granted Extension of relaxation on the guidelines to NBFCs on Securitization Transactions and decided to extend the dispensation till December 31, 2019.

In order to encourage NBFCs to securitise/assign their eligible assets, RBI has originally decided to relax the Minimum Holding Period (MHP) requirement for originating NBFCs, in respect of loans of original maturity above 5 years, to receipt of repayment of six monthly installments or two quarterly installments (as applicable). RBI in a circular issued on 29th Nov, 2018 has clarified that the above dispensation shall be applicable to securitisation/assignment transactions carried out during a period of six months from the date of issuance of the circular. Other terms and conditions of the Master Directions on Non-Banking Financial Company – Systemically Important Non-Deposit taking Company and Directions would continue to apply.

FINANCE & MONEY MARKETS

In setback to banks, NCLT orders Sterling Biotech liquidation

In a major setback to banks, the NCLT sent Sterling Biotech for liquidation, rejecting the

lenders' led by Andhra Bank, plea to withdraw the insolvency process and allow a one-time settlement with the absconding promoters, the Sandesara brothers. A National Company Law Tribunal (NCLT) bench said as they have not received a resolution plan within the time, leaving them with no other option but to order liquidation.'

NABARD announces Rs 700-cr VC fund for agri, rural startups

The National Bank for Agriculture and Rural Development (NABARD) May 13 announced Rs 700-crore venture capital fund for equity investments in agriculture and rural-focused startups. NABARD has been contributing to other funds till now and this is the first time that the rural development bank has launched a fund of its own. The fund has been launched by Nabventures, a subsidiary of NABARD, and has a proposed corpus of Rs 500 crore with an option to retain over-subscriptions of Rs 200 crore, called as the greenshoe option.



MISCELLANEOUS

SEBI moots regulatory sandbox regime for financial institutions

Markets watchdog Securities and Exchange Board of India (SEBI) proposed a regulatory sandbox for financial institutions wherein exemptions could be provided from various regulations for developing new products and services. By participating in the sandbox regime, the companies will get an opportunity to test their solutions on real customers/investors. On the other hand, it may help SEBI to frame policies that may reduce the time and cost of deploying new investor-centric solutions in the capital market.



SEBI panel proposes ways to ease FPI regulations

With a view to tap foreign savings to meet liquidity and investment needs, a SEBI-constituted working group Chaired by H R Khan, former deputy governor of the RBI, on Friday suggested ways to ease FPI regulations in the country. The panel was constituted to consolidate and rationalise the FPI framework. "Flows of overseas funds both through the FPI and the Foreign Direct Investment (FDI) routes have been significant with record inflows into capital markets in India in recent year.

SEBI lays out accreditation framework for investors willing to invest in startups

Markets regulator SEBI came out with framework for accreditation of investors seeking to invest in startups that would be listed on Innovators Growth Platform (IGP). The IGP, earlier known as Institutional Trading Platform, has been created to facilitate listing of startups or new-age ventures in sectors such as ecommerce, biotechnology, and data analytics. In a circular, SEBI provided framework including eligibility criteria and procedure to be recognised as an accredited

investor (AI) and also mentioned the validity of accreditation.

Five more internal audit standards issued

The CA Institute has issued five more Standards on Internal Audit (SIA) to provide guidance to its members. These SIA are particularly relevant in situations of internal audit of listed enterprises. The five SIAs are - Nature of Assurance; Objectives of Internal Audit; Using the Work of an Expert; Communication with management and Reporting Results. The SIA on Nature of Assurance is a new one.

SEBI imposes Rs 60 lakh fine on 9 entities for fraudulent trading practices

Market regulator SEBI has slapped a total penalty of Rs 60 lakh on nine entities for indulging in manipulative trading in the scrip of Exdon Trading Company Ltd. Out of the nine entities, Henal C Patel, Dantara Amish Vijaykumar and Henal Hemantbhai Shah have been fined Rs 10 lakh each while others including Dhanlaxmi Lease Finance have been fined Rs 5 lakh each. These nine entities are the noticees. SEBI conducted an investigation into the trading of the scrip of Exdon between May 2013 and March 2015, and found that the entities were connected to each other.

CUSTOMS

Importers protest recent circular from Customs office on rough diamonds

A recent circular from the Customs office has put on hold the import of rough diamonds, rue industry officials. The circular was issued a fortnight earlier. It says importers must specify the origin, size, shape, type, colour, etc, of each such diamond in the bill of entry or shipping bill. The Customs department has said the circular is a sequel to some recent incidents of suspected misdeclaration of value in import and export of rough diamonds.

ABOUT SRNG ADVISORS LLP

SRNG Advisors is a LLP providing advisory services catering to the needs of its clients across the country. SRNG offers a wide range of specialized, multidisciplinary professional services that meet immediate as well as long term needs of any business. Our multidisciplinary team of dedicated professionals is well equipped with the requisite business and technical skills, experience and knowledge base to deliver customized solution to our clients across industries.

SERVICES WE OFFER

- Mergers & Acquisitions
- Capital & Stock Market
- Valuation Business Modeling
- Transaction Tax Advisory
- Registration & Compliance Services
- Corporate Law Advisory

FOR SUBSCRIPTION OF NEWSLETTER AND REGULAR UPDATES, CONTACT:

✉ : DC -2, 8th Floor, Signature Tower, Tonk Road, Lalkothi, Jaipur -15 (Raj.)

☎ : +91-9358812012

✉ : info@srngadvisors.com

🌐 : www.srngadvisors.com

DISCLAIMER: This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, SRNG, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.